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Study on resilience, traditional knowledge and capacity-building for pastoralist communities in Africa

Note by the Secretariat

Pursuant to a decision of the Permanent Forum on Indigenous Issues at its eleventh session (see E/2012/43, para. 108), Paul Kanyinke Sena, a member of the Forum, undertook a study on resilience, traditional knowledge and capacity-building for pastoralist communities in Africa. The study focuses on good practices and opportunities. The report is hereby transmitted to the Forum at its twelfth session in response to that decision.

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Study on resilience, traditional knowledge and capacity-building for pastoralist communities in Africa[1]

I. Introduction

1. Pastoralists played a foundational role in the creation of an indigenous peoples' civil society movement in Africa at the end of the twentieth century. As an economic and cultural phenomenon, pastoralism reaches back at least 8,000 years and has played a deeply influential role in social, cultural and political organization in the continent. Pastoralism has thrived in Africa owing to the limitations of rain-fed agriculture and of the severity of changes in climate, which have required a resourceful use and careful stewardship of natural resources by mostly nomadic or semi-nomadic pastoralist peoples.

2. In 2003, the African Commission on Human and Peoples' Rights adopted the report of its working group on the rights of indigenous populations and communities on the notion of indigeneity in Africa. This notion is closely associated with the norms and standards and processes of the United Nations Declaration on the Rights of Indigenous Peoples. The Commission noted that the majority of peoples claiming indigenous status in Africa were living either by traditional pastoralism, by hunting and gathering or by some combination of these and traditional horticultural or fishing economies. Today, not all pastoralists in Africa consider themselves to be indigenous peoples in the way that indigenous people are understood by the Commission and the United Nations. Some peoples, however, have seen the need to claim their indigeneity as part of a national or regional strategy to defend their rights, lands and territories.

3. Major mobilizations of pastoralists claiming their indigenous peoples' rights have taken place in East Africa, the Saharan region of West Africa and, increasingly, among Sahelian pastoralists in West and Central Africa, as well as in parts of South Africa and Namibia. The one area where pastoralism is prevalent but where there has not been substantial mobilization is the north-eastern part of the continent, in the area ranging from the Sudan to Somalia and Egypt. The area includes Ethiopia, where a number of major pastoralist populations can be found.

4. The main challenge for pastoralists in Africa, which is also the key reason why pastoralists are seeking to associate themselves with indigenous peoples' rights, norms and standards, is the non-recognition of mobile land rights and tenure. Insufficient land tenure stems from the colonial legal traditions in Africa, which have tended to erode African customary tenure systems and place greater emphasis on the territorial rights of agricultural peoples at the expense of pastoralists, fishing peoples and hunter-gatherers.

5. Pastoralism is built on the principle that the ecosystem requires time to regenerate and adjust to climate change cycles, and that humans and domestic animals need to move systematically in order to protect both biodiversity and human livelihoods. Humans and domestic animals can benefit from moving to different altitudes or across wide expanses of relatively flat land, and often make use of migratory corridors.

[1] The research and preparation of this document was supported by Nigel Crawhall and members of the Indigenous Peoples of Africa Coordinating Committee.

6. Traditionally, most pastoralist tenurial systems complemented the systems of tenure of hunter-gatherers and farmers. Legal and social discrimination against pastoralists has led to diminished tenure and transhumance opportunities. This leads either to direct conflict between communities, erupting into civil war in some cases, or to the entrapment of livestock and indigenous peoples in limited areas of land and, consequently, to overgrazing. This problem is now exacerbated by the encouragement, by States, of foreign exploitation of resources through activities, such as mining, that further break up the landscape and disrupt the ecological logic of traditional tenure and mobility.

7. In the context of climate change, pastoralists are able to adjust to climate instability. The African continent has experienced extreme swings in climate over time and pastoralists have successfully managed to use their traditional knowledge systems and mobility to navigate the changes and conserve biodiversity. However, political and legal weaknesses make indigenous pastoralists in Africa more vulnerable today than in the past. Pastoralists are currently experiencing greater land loss than they did under colonial regimes, as modern African Governments prefer to provide drylands to farmers, who are politically more important, at the expense of both the environment and indigenous peoples' rights.

8. African Governments are aware that climate change increases the threat of conflict between indigenous pastoralists and other communities vying for water and land. The challenge for indigenous peoples is this: How can changes in land tenure policies and legislation that will help secure land tenure for indigenous people be brought about in a way that preserves harmony with the ecosystem? This issue has already been raised by indigenous pastoralists who are actively involved in national climate change policymaking and, in particular, pastoralists who can bring traditional knowledge and experience into policymaking discussions. These issues are of widespread relevance in Africa, and the Permanent Forum on Indigenous Issues is well placed to raise awareness about them among United Nations agencies in order to promote cooperation between such agencies and African States, the African Commission on Human and Peoples' Rights and indigenous pastoralists on sustainability and rights development.

II. Historical context

9. Some 13,000 years ago, planet Earth began to warm and establish a climate that allowed for the development of new types of economic practices that drew on natural resources. Crops and cattle started to be domesticated almost simultaneously in the Middle East in the eighth millennium BCE. Before that time, humanity had relied on hunting and gathering. Pastoralism and, in particular, agriculture allowed for the densification of human populations and the reorganization of human society. This trigger created complex and sometimes adversarial dynamics between aboriginal hunter-gatherer peoples and the expanding population of pastoralists and farmers. This ancient tension remains in much of Africa, and is complicated by the effects of colonialism and the shift of control of the State apparatus into the hands of agricultural communities.

10. Livestock domestication long predates agriculture on the African continent. Africa has thus had a different historical pattern of changes compared to other regions, including Asia. In part, the dryness of Africa continued to help pastoralists

sustain control over vast territories that were not conducive to agriculture. In some cases, there were symbiotic arrangements between farmers, herders and hunters that endured for centuries or even millennia and helped people survive climate fluctuations.

11. Major academic debates continue about whether Saharan North Africans domesticated cattle as early as 9500 BCE. After 7700 BCE, it is quite clear that a pastoralist economy and cultural system had been established in the Sahara. Archaeologists suggest that two ancient traditions form the basis of the modern indigenous peoples: one is associated with cattle culture in the Sahel and is part of the Fulani cultural system that spread throughout West Africa and the other is the camel-herding culture of the Tuareg peoples, whose language and culture are part of a larger Amazigh/Berber cultural system present in the Sahara and throughout North Africa.

12. Climate fluctuations and prolonged droughts in the Sahara led both the proto-Tuareg and proto-Fulani cultures to spread southward, establishing greater ranges for traditional pastoralism. Today's Fulani herders, known as the M'Bororo or Wodaabe, can trace their cultural and economic ancestry in the Sahel to at least 7,000 years ago.

13. The East and Southern African pastoralist traditions are associated with the movement of peoples out of the Nile valley. Most modern pastoralists are either part of the Cushitic language family originating in the horn of Africa or Nilotic language speakers who migrated from the Nile valley in waves across East Africa. The main Nilotic migration started some 4,000 years ago and eventually reached Southern Africa about 2,000 years ago. The Nilotic and Cushitic language groups, which included both hunter-gatherers and pastoralists, encountered even more ancient populations, including the Hadzabe, the Sandawe and the Khoe-San peoples of Southern Africa.

14. East African herders predate the agriculturalists by about 1,500 years. Improvements in Africa's climate triggered a massive migration of Bantu-speaking peoples out of Cameroon, who eventually covered two thirds of Africa. The Bantu speakers were agropastoralists who encountered the older hunter-gatherer peoples and the established swathes of Cushitic- and Nilotic-speaking pastoralists.

15. Pastoralism and farming did not expand into Southern Africa until relatively recently. A belt of tsetse fly (genus *glossina*) restricted migration between East and Central Africa for millennia. The tsetse fly carries sleeping sickness, which affects humans, and trypanosomiasis, which affects livestock.

16. Indigenous pastoralists from East and Southern Africa first made contact approximately 2,000 years ago. One current genetic theory is that the Datoga/Barabaig pastoralists of the northern part of what is now the United Republic of Tanzania managed to work their way down a narrow tsetse-free corridor and connected with Central Khoe-San-speaking peoples, possibly the Khwe or related peoples. One group of Southern African Khoe-San peoples, the Khoekhoe or Namas, absorbed the East African sheep and cattle culture. It also made substantial cultural and economic adjustments to its societies and proceeded to expand across Southern Africa. Prior to this, all Southern Africans had been hunter-gatherers.

17. Bantu speakers followed the same migration corridor and established themselves in the area that is now South Africa about 800 years ago, only a few

centuries before Europeans arrived to colonize the region. Today, the main pastoralist groups claiming an indigenous status include the various Khoekhoe herders (Griqua and Nama), as well as the traditional Himba herders of northern Namibia.

III. Colonial legal discrimination

18. Colonialism is a complex topic and a phenomenon that has been experienced in a variety of ways and had different long-term effects in the African region. In general, it is reasonable to say that Europeans occupied Africa to extract valuable resources for their own economic needs. This extraction required manual labour. European colonizers focused on agricultural populations, which were larger and sedentary, as the pool of labour for their extractive economies. This led to a more intimate relationship between the colonial settlers and the agricultural peoples, one that resulted in the transfer of languages and greater access to the colonial governing system, than between the colonizers and the hunters and herders, who were mostly seen as primitive, unreliable and not useful as labourers.

19. In addition, Europeans had some difficulty in subduing the nomadic populations, who were armed and used to defending their territories. Ethiopia, a substantially pastoralist country, remained for the most part ungovernable by Europeans. France remained in constant conflict with Tuareg peoples in the Sahara and the M'Bororo mostly stayed outside the reach of colonial authorities. Masai and other East African herders entered into a number of violent conflicts with European invaders, eventually settling a series of treaties with the British Crown.

20. Western Europe too had gone through major economic changes and had a long history of feudal and post-feudal land ownership, where most nomadism had been suppressed or pushed to the farthest corners of the modern State system. Legal systems of tenure were founded for the convenience of Europeans, to ensure a reliable pool of labourers, keep the best arable land from Africans and create political boundaries between European powers. All of these practices were alien to African indigenous pastoralists and had nothing to do with African ecology.

21. The European ideology that penetrated African law was based on the concepts of *res nullius* and *terra nullius*. *Res nullius* refers to the concept of "a thing without an owner" and hence to something that is open to possession by anyone. *Terra nullius* is a concept closely associated with the European doctrine that considered discovered lands to be unoccupied or without a custodian. As pastoralists were mostly nomads, it was easy for Europeans to claim that the territories they lived on constituted *terra nullius*.

22. As Africa moved from the colonial to the post-colonial phase, most indigenous pastoralist peoples experienced marginalization from the State, increased sociocultural discrimination and a loss of land security. This trajectory has remained largely unchanged since the independence phase, with constant encroachment on land rights and a substantial marginalization of pastoralists from formal governance. In most post-colonial countries, pastoralist traditional authorities or institutions are not recognized by the State, or are accorded a lesser status than that of the ruling party and the State-based institutions.

23. The concept of *res nullius* created a legal justification for denying indigenous land tenure in favour of a narrow European definition related to sedentary, colonizing peoples. One of the side effects of the elaboration of that ideological justification for colonization was the idea that there is a temporal and hierarchical order to the world according to which hunter-gatherers are seen as the most savage (and hence inhuman, undeserving of citizenship, rights or dignity). Moving upward, through nomadic pastoralism, agropastoralism and subsistence agriculture, this order led, eventually, to the feudal agricultural and trading empires that existed in several parts of Africa by the eighteenth century.

24. This bias is maintained in modern African law, with legal and constitutional systems failing to recognize the traditional rights to resources of mobile indigenous hunters and herders or their traditional governance institutions. Even though transhumance is an important adaptive technique for African climates and ecosystem maintenance, this importance is not reflected in land tenure laws, which are for the most part based on colonial legislation and norms.

25. It was an African case that led to the judgment that finally declared *res nullius* invalid as a legal principle when applied to foreign conquest. In this regard, the advisory opinion of the International Court of Justice on the *Western Sahara* case is crucial. In the words of Judge Fouad Ammoun:

> The concept of *res nullius*, employed at all periods, to the brink of the twentieth century, to justify conquest and colonization, stands condemned. It is well known that in the sixteenth century Francisco de Vitoria protested against the application to the American Indians, in order to deprive them of their lands, of the concept of *res nullius*. This approach by the eminent Spanish jurist and canonist, which was adopted by Vattel [...] was hardly echoed at all at the Berlin Conference of 1885. It is however the concept which should be adopted today.[2]

The decision of the Court should mean that nomads have the same right to land that urban landowners with title deeds do. In practice, this is not the case, and indigenous peoples remain at a legal disadvantage in Africa owing to this colonial legacy.

IV. Overview of rights issues

26. Indigenous pastoralists are asking that national legislation be aligned with the United Nations Declaration on the Rights of Indigenous Peoples. The foundation is evidently participation in the political system through an arrangement whereby indigenous peoples are allowed to determine the way that natural resources are used in their territories, where their tenure and authority is formally recognized and where decision-making is based on dialogue and consent.

27. Tensions and inequality affect many issues linked to the rights of indigenous pastoralists in modern-day Africa, including the following:

(a) The right to occupy traditional territories;

[2] See http://www.icj-cij.org/docket/files/61/6204.pdf.

(b) The right to be involved in decision-making about grazing lands and conservation;

(c) The right to be included in national censuses with a view to increasing the accuracy of figures on demographics;

(d) The right to enjoy the benefits arising from the exploitation of subsurface minerals and other mining products;

(e) Recognition by the State of indigenous peoples' institutions (traditional authorities and decision-making institutions);

(f) Recognition of pastoralists' tenure and related rights, and protection of fundamental rights against land expropriation without consent, notably in the context of mining and the resettlement of human populations;

(g) Equity in agricultural policy so that pastoralism is recognized as a legitimate livelihood, customary tenure system and involvement in policymaking;

(h) Full participation by indigenous pastoralists in the designation and governance of protected areas and world heritage sites;

(i) Tackling corrupt practices by State officials, as well as by members of the police and military, that unfairly target indigenous peoples.

28. A number of West African States have developed so-called "pastoral codes". Most indigenous peoples are highly critical of these codes, which tend to entrench agricultural views of land use, rights and development.

29. There have been some positive shifts recently, including improvements in the Niger and Kenya, and a restructuring of the political system in Ethiopia. These changes and a growing awareness that pastoralism copes better with climate instability than farming, indicates that the time is ripe to challenge the legal discrimination against indigenous pastoralists. Such a challenge must also lead to the recognition of indigenous institutions and decision-making as part of the relationship between the State and indigenous citizens.

30. There is much room for improvement in national policies on pastoralism and the rights of pastoralists in Africa. Mining and damming are of major concern to most African pastoralists. Pastoralists are not necessarily denying the benefit of mineral extraction, but they are concerned about the following:

(a) Pollution of the water table, particularly radioactive pollution from uranium mining;

(b) Consent and participation of indigenous peoples in decisions about mining concessions in traditional territories;

(c) Maintenance of transhumance corridors even where extraction activities are undertaken;

(d) Equitable sharing of benefits from mineral extraction to the benefit of indigenous peoples and territories;

(e) Dams, which have a major impact on the environment, change disease dynamics and limit access to water for livestock;

(f) Involvement of indigenous peoples in decisions on damming within their territories or on water courses that affect their territories.

V. Climate change

31. Climate instability is having a major impact on the African continent. All regions of the continent are affected, with the pastoralist drylands being particularly prone to droughts and sudden floods. There is a common misperception that drylands are not resilient to climate fluctuations. This is in part an agricultural bias. African grasslands can recover remarkably well, so long as they are not overgrazed when dry and it rains eventually. It is for this reason that mobility and the land tenure and water rights of pastoralists are so important in the current context.

32. Similarly, the external perception is that pastoralists are very vulnerable to climate instability. It is true that droughts are highly stressful and traumatic, and that climate-sensitive diseases are increasing, but pastoralism in Africa was born from a context of poor soils, which encouraged the sustainable use of natural resources and population mobility. The knowledge and adaptability that pastoralists have acquired are great assets in the current context of instability. Farmers are more likely than herders to starve in a drought.

33. Pastoralists are interested in how they can work more closely with African Governments and United Nations agencies to cope with the effects of climate change. Some of the issues are the following:

(a) Involvement of indigenous peoples in national adaptation and climate change policymaking;

(b) Access by indigenous pastoralists to information on climate change and weather forecasting, including medium-term climate predictions, to reduce the risks arising from floods and droughts;

(c) Involvement of indigenous peoples in the monitoring of the weather and climate, and regular interaction with Government departments dealing with water, livestock and biodiversity conservation;

(d) Establishment, before droughts occur, of platforms to avoid conflicting land and water use;

(e) Use of traditional institutions to help resolve conflicts and prevent violence during extreme weather events;

(f) Access to reserve lands, including some protected areas during extreme droughts;

(g) Protection of underground water sources, particularly those that sustain oases, as the overuse of water for mining and industrial agriculture risks the collapse of oasis biodiversity, endangering entire regions;

(h) Promotion of new technologies to assist indigenous pastoralists in coping with climate-related effects, including the use of long-distance information technology to provide weather and climate forecasting, and the promotion of cellular telephone technology and information systems for livestock pricing at local markets (best price within distance);

(i) Development of national policies on loss and damage that help pastoralists protect the genetic diversity of their livestock and their breeding races, including the genetic rights of livestock developed by indigenous peoples, and the establishment of a gene bank or investment scheme to help pastoralists recover from extreme weather shocks using appropriate African domestic breeding stock.

VI. Conclusions and recommendations

34. A number of United Nations agencies, including the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and the International Fund for Agricultural Development, have substantial influence in Africa on agricultural policies. These three agencies, in cooperation with other United Nations entities such as the secretariats of the Convention on Biological Diversity, the United Nations Convention to Combat Desertification and the United Nations Framework Convention on Climate Change could be invited to convene a workshop on African pastoralism, indigenous peoples' rights and climate adaptation.

35. The Permanent Forum on Indigenous Issues continues to engage with the African Commission on Human and Peoples' Rights. At the same time, there could be more focus on making sure that national policies regarding indigenous pastoralism comply with the United Nations Declaration on the Rights of Indigenous Peoples and the 2003 report of the African Commission.

36. The International Union for Conservation of Nature (IUCN) has launched its Global Drylands Initiative, which could be presented to those wishing to know more about indigenous pastoralists in the African region. For example, United Nations agencies and members of the Inter-Agency Support Group on Indigenous Peoples' Issues might be interested in knowing more about the current situation of pastoralists in the African drylands. This information could influence and improve national and regional policymaking within a rights-based paradigm supportive of ecosystem resilience.

37. Indigenous pastoralists in Africa are concerned about their relationship with the Convention on World Heritage Sites of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Permanent Forum continues to engage with the UNESCO World Heritage Committee, but there is also a need to engage with other bodies (for example the UNESCO World Heritage Centre, the African World Heritage Fund, the IUCN World Heritage Programme and African indigenous peoples' institutions located in world heritage sites) to further discuss improvements to nomination procedures and the governance of sites.

38. The UNESCO Local and Indigenous Knowledge Systems subdivision, the Nairobi Work Programme of the Climate Change Convention secretariat and the World Meteorological Organization have expressed interest in supporting African States in developing inclusive platforms for African adaptation and climate policymaking. Those agencies need to work with other relevant agencies and indigenous rights holders on a framework and resource kit for the inclusion of traditional knowledge in national policymaking.

Annex

Case studies of the Indigenous Peoples of Africa Coordinating Committee

1. The Indigenous Peoples of Africa Coordinating Committee has been involved in several initiatives with pastoralists to help improve dialogue between the State and indigenous pastoralists and between nomadic pastoralists and sedentary peoples.

2. Below is a list of materials related to the use of participatory mapping and related technologies for creating spatial planning and advocacy opportunities with indigenous pastoralists:

(a) 2012 report of participatory mapping by M'Bororo indigenous pastoralists in southern Chad, which deals with issues of migration, climate impacts and conflicts (http://ipacc.org.za/uploads/docs/ChadReport_Nov2012.pdf);

(b) Declaration on adaptation to climate change, indigenous pastoralism, traditional knowledge and meteorology in Africa, the outcome of a conference held in N'Djamena from 7 to 9 November 2011 (http://ipacc.org.za/uploads/docs/N%E2%80%99Djamena_Declaration_eng.pdf, also available in French);

(c) 2011 Committee flyer on the application of traditional knowledge in adaptation policies (http://ipacc.org.za/uploads/docs/Adaptation.pdf);

(d) 2009 Committee report on a conference on the use of geospatial technologies by indigenous peoples for the purposes of environmental advocacy, held in Windhoek from 26 to 28 August 2008 (http://ipacc.org.za/uploads/docs/Windhoek_English_Second_Edition_Web.pdf);

(e) 2008 Committee report on the use of new technologies, participatory mapping and traditional knowledge in heritage education for sustainable development (http://ipacc.org.za/uploads/docs/090505b_ESD_composite_report_Africa08_final.pdf);

(f) The Committee's first pan-African conference on climate change, held in Marrakech, Morocco, from 5 to 10 November 2008 (http://ipacc.org.za/uploads/docs/Marrakech_English.pdf).

3. For further reading on the subject, see "Indigenous peoples and climate change in Africa: traditional knowledge and adaptation strategies" (http://www.charapa.dk/wp-content/uploads/Indigenous-Peoples-and-Climate-Change-in-Africa-final-draft.pdf).

I. Introduction

1. The present study was prepared in consultation with indigenous persons with disabilities. In this regard, an expert meeting was held in Madrid on 20 and 21 November 2012, bringing together indigenous persons with disabilities from various regions and other experts, including from the United Nations, working in the areas of indigenous peoples and persons with disabilities.

2. The *World Report on Disability*, produced by the World Health Organization and the World Bank in 2011, estimates that 15 per cent of the world's population has a disability, of whom 3 per cent has a severe disability. Applying this percentage to the estimated 360 million indigenous persons, the number of indigenous persons with disabilities stands at approximately 54 million.

3. The lack of reliable data is a problem both for indigenous peoples and for persons with disabilities, given that very few countries have statistics on indigenous persons with disabilities. Data from Latin America and Australia provide a diverse picture. In some countries, the prevalence of disability among indigenous persons is lower than in the general population, whereas it is much higher in others.

4. In Latin America, available statistics for seven countries (Brazil, Colombia, Costa Rica, Ecuador, Mexico, Panama and Uruguay) show that there is a higher rate of disability among indigenous persons than the rest of the population. In Brazil and Colombia, however, the rate is lower among indigenous children. For persons aged 19 and older, there are more indigenous persons with disabilities than non-indigenous for all seven countries, with sizeable gaps in Costa Rica and Uruguay.

5. In Australia, about half of indigenous adults reported a disability in 2008,[2] as compared with a national figure of 18.5 per cent in 2009 gathered through a survey of disability, ageing and carers. In New Zealand, statistics were published in 2006 on disability and Maori. A disability survey found, after adjusting for the age structures of the two populations, that the age-standardized disability rate for Maori was 19 per cent, compared with 13 per cent for non-Maori. More Maori persons with disabilities are living in poverty or have no educational achievements, as compared with non-Maori persons with disabilities.[3]

6. In Canada, some statistics have been provided on aboriginal persons with disabilities by state and by indigenous people. In 2000, the observer for Canada informed the Working Group on Indigenous Populations that aboriginal children were three times more likely than non-indigenous children to have physical disabilities (E/CN.4/Sub.2/2000/24, para. 34). A First Nations regional longitudinal health survey conducted in 2002/03 provided some information about prevalence, employment, education, income and health status, in addition to making recommendations. The survey showed that about 22.9 per cent of on-reserve persons aged 18 and over had disabilities.

7. There are a number of reasons why disability would be more prevalent among indigenous peoples than among the general population, including higher levels of poverty, increased exposure to environmental degradation, the impact of large projects such as dams or mining activities and the higher risk of being victims of

[2] See www.healthinfonet.ecu.edu.au/health-facts/overviews/disability.

[3] Office for Disability Issues and Statistics New Zealand, *Disability and Maori in New Zealand in 2006: Results from the New Zealand Disability Survey* (Wellington, Statistics New Zealand, 2010).

violence. The 2009 edition of the *State of the World's Indigenous Peoples* report mentions, in particular, mental health issues and the prevalence of diabetes among indigenous persons.[4]

8. While data on the prevalence of disability among indigenous peoples are important, it is even more important to have information on the actual well-being and inclusion of indigenous peoples. Accordingly, the situation of indigenous persons with disabilities must be taken into account in efforts to develop new statistical tools that will reflect the situation of indigenous peoples in a culturally sensitive way, as outlined in the *State of the World's Indigenous Peoples* report.

Legal framework

9. Two international instruments provide the main legal, conceptual and political framework for the protection and promotion of the rights of indigenous persons with disabilities. Articles 21 and 22 of the United Nations Declaration on the Rights of Indigenous Peoples make specific reference to persons with disabilities. The Convention on the Rights of Persons with Disabilities, which following its entry into force in 2008, now has 127 States parties, includes a single reference to indigenous peoples in its preamble.

10. The Convention, as other human rights treaties, focuses primarily on individual rights, but also contains provisions of a more collective nature. The approach of the Declaration is primarily collective, but also includes references that provide individual rights. Both instruments have in common their comprehensive nature and, while both would have benefited from more explicit references to indigenous persons with disabilities, read together, they provide useful guidance to States, indigenous peoples and other stakeholders.

11. The Convention provides detailed guidance on how States are to promote and protect the rights of persons with disabilities, which clearly includes indigenous persons with disabilities. Implementing the Convention in a way that also respects the Declaration means that, whenever relevant, the measures foreseen in the Convention will need to be applied in a way that is sensitive to the culture and world vision of indigenous peoples in order to best protect the rights of indigenous persons with disabilities.

12. While legislation and policies designed for persons with disabilities often have the objective of ensuring the full inclusion of those persons in mainstream society, indigenous peoples tend to be wary of any form of mainstreaming that may lead to assimilation and threaten their languages, ways of life and identities. For indigenous persons with disabilities, whether living in their communities and/or in urban settings where indigenous institutions may be located, this distrust should result in ensuring that indigenous persons with disabilities are supported to fully take part in the life of their communities.

13. Another important instrument is the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169), under the auspices of the International Labour Organization, which recognizes, in the fourth preambular paragraph, that there is a need to remove the assimilationist orientation

[4] *State of the World's Indigenous Peoples* (United Nations publication, Sales No. E.09.VI.13), pp. 163 and 169-172.

of earlier standards and acknowledges other important developments such as the rights to culture and land. Implementing this instrument includes consultations, respect for customs and agreement with international human rights law.[5]

14. There appears to be little awareness among indigenous persons with disabilities of the Declaration and the Convention on the Rights of Persons with Disabilities. The Declaration is available in a number of indigenous languages, unlike the Convention. Translation, dissemination and a process of appropriation by indigenous peoples of the Convention are needed.

Purposeful absence of prevention of disability in the Convention

15. The negotiators of the Convention purposely did not include the issue of prevention of disability except in article 25, on health, in relation to preventing further disabilities for persons who already have a disability. Because the Convention deals with persons who already have disabilities, it follows that legislation and policies targeting the rights of persons with disabilities should avoid addressing the issue of prevention of disability. In addition, discussions around prevention often perpetuate negative, discriminatory and harmful stereotypes about disability. The greater chances in some indigenous communities of acquiring a disability (including those more closely linked with poverty, environmental contamination or working conditions), can, however, be discussed under the auspices of other relevant frameworks and not when discussing the rights of persons with disabilities (and keeping in mind the need to avoid harmful stereotypes about disability). If there are disproportionately more persons with disabilities among indigenous peoples, as compared with the rest of the population, this could be relevant in evaluating whether and how well any necessary services and support for persons with disabilities are provided by relevant parties. For these reasons, and using the Convention as a reference, prevention of disability is not discussed herein.

II. Attention by the United Nations to indigenous persons with disabilities

16. Indigenous persons with disabilities have been largely invisible in the work of the various United Nations entities that address the rights and situation of indigenous peoples and persons with disabilities. The *World Report on Disability* includes very little information on indigenous persons with disabilities, while the *State of the World's Indigenous Peoples* report notes only that indigenous persons are more likely to have a disability, including mental health issues leading to higher suicide rates. The Expert Mechanism on the Rights of Indigenous People and the Special Rapporteur on the rights of indigenous peoples have to date not addressed the specific situation of indigenous persons with disabilities.

17. Of the 27 States that have submitted their first periodic reports to the Committee on the Rights of Persons with Disabilities to date, 10 have mentioned indigenous peoples: Argentina, Australia, Cook Islands, Costa Rica, Denmark, Kenya, Mexico, New Zealand, Paraguay and Peru. Some references to indigenous

[5] See John B. Henriksen, "Key principles in implementing ILO Convention No. 169", Research on Best Practices for the Implementation of the Principles of ILO Convention No. 169, Case Study No. 7 (Geneva, International Labour Organization, 2008), pp. 19 and 56-57.

peoples are incidental and general (and not very meaningful), while others are more specific about the actual situation of indigenous persons with disabilities. Indigenous persons with disabilities are mentioned in the Committee's concluding observations for Argentina and Peru (CRPD/C/ARG/CO/1 and CRPD/C/PER/CO/1), with the Committee focusing mainly on statistics and education. Argentina was also requested to adopt specific policies and programmes for indigenous persons with disabilities under article 5 of the Convention, on equality and non-discrimination.

III. Perceptions of disability among indigenous peoples

18. Persons with disabilities are faced with attitudinal barriers in most societies, including stigma, fear, prejudice, low expectations, paternalism or failure to be informed. The Convention seeks to tackle those barriers. A key guiding principle of the Convention is found in its article 3, in which it is stated that disability is part of human diversity, meaning that it is no different from other features that distinguish one person from another.

19. In some indigenous languages, there is no translation of the term "persons with disabilities". Sometimes, there are terms that are pejorative or that cover only certain types of disability. In pre-colonial Maori culture, persons with disabilities may have been well supported and valued, but this support may have been withdrawn in harder times or if sickness or impairment was believed to be due to an infringement of sacred rules, an affliction from a supernatural being or ancestor, or spiritual powers, witchcraft or magic.[3] There are also indigenous languages that have used very positive terms for persons with certain disabilities, often linked to the fact that they were seen as having special gifts (i.e. from the creator). Each person has a special role in his or her community and impairment is seen as difference rather than deficiency.[6]

20. It also appears to be the case that, in several indigenous societies that previously had a more respectful attitude towards persons with disabilities, the impact of colonialism and the Western model of development may have led to a more negative attitude. This shift has often also been increased by the application of the now-outmoded medical model of disability, which has focused on what may be termed "correcting" the individual instead of taking a more holistic approach, as would also better reflect the earlier culture of indigenous peoples. In some places, the perception of what was once seen as a gift, a source of wisdom or a welcome contact with the spirits or the spiritual or philosophical life has changed because of the rupture of social systems resulting from a Western model of development. It is extremely important to strengthen indigenous institutions to regain or build this inclusion. Just as disability is an evolving concept, indigenous cultures and world views are also not static and can affect persons with disabilities positively or negatively.

[6] Jamie MacDougall, *Where the River Flows: Aboriginal People with Disability, A Literature Review: Focus on Employment*, Human Resources and Skills Canada, Aboriginal Affairs Directorate (October 2006), pp. 31 and 32.

IV. Key issues for indigenous persons with disabilities

A. Self-determination

21. The right of indigenous peoples to self-determination needs to be at the heart of any policy that seeks to promote and protect the rights of indigenous persons with disabilities. Indigenous persons with disabilities have the same right to benefit from self-determination as other members of indigenous peoples. Accordingly, this collective right must be taken into consideration in elaborating all policies and designing and delivering needed services. The right of indigenous peoples to determine their political or organizational systems should include and respect members with disabilities and should be exercised with the active participation of those members. An increased understanding of and concern for broader self-determination and jurisdictional issues is needed in this regard.[7]

22. The Convention seeks to provide to persons with disabilities the same rights as their peers without disabilities. This notion also applies to indigenous peoples. Indigenous persons with disabilities should benefit from the same rights and opportunities as other indigenous persons from their community.

B. Participation in decision-making and consultation

23. The right to participate in decision-making processes is protected in both the Convention and the Declaration. They contain articles on participating in life-affecting decisions (arts. 4 (3) and 29 of the Convention, in addition to art. 33 (3), and arts. 18 and 19 of the Declaration), the right to participate in political and public life (see, for example, art. 29 and preambular paragraph 7 of the Convention and arts. 5 and 11 of the Declaration). Article 20 of the Declaration states the right of indigenous peoples to maintain and develop their political, economic and social systems or institutions.

24. For indigenous persons with disabilities living outside their communities, it is important that general organizations of persons with disabilities include them as members, learn how to advocate on their behalf in a culturally appropriate way and exchange knowledge and experience.

25. There is scant evidence of the participation of indigenous persons with disabilities in consultation processes in place in their communities or States. The formation of organizations of persons with disabilities can be an important factor or step to facilitate consultation and meaningful participation in decision-making, as has been done in Australia (the First Peoples Disability Network) or in Nicaragua and Honduras, where Miskito divers with disabilities have formed organizations. Additional support for and consultations with such organizations are needed.

26. The level of inclusion of indigenous persons with disabilities in indigenous institutions has not yet been sufficiently examined and most available evidence is anecdotal. Some indigenous persons with disabilities do not participate in decision-

[7] According to evidence given by Wendall Nicholas, a member of the Maliseet nation at Tobique, to the Sub-Committee on the Status of Persons with Disabilities of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities of the Parliament of Canada, 19 March 2002.

making processes or community planning because of mobility limitations or because meetings are conducted in inaccessible places, depriving them of their right to political participation. Furthermore, indigenous persons with disabilities are often largely ignored and also lack the very basic means needed to participate. A recent study, for example, found that none of the Navajo Nation's public buildings was fully accessible to the estimated 40,000 persons with disabilities living on the Navajo Nation reservation.[8]

27. The Miskito people have two parliaments in the two autonomous regions of Nicaragua (Atlántico Norte, the capital of which is Puerto Cabezas, and Atlántico Sur, the capital of which is Bluefields), but without members with disabilities. The deputy mayor of Puerto Cabezas is a woman with a disability.

28. It is the responsibility of States at all levels and indigenous peoples to ensure that indigenous persons with disabilities are not discriminated against because of their disability. The right to participate in decision-making and consultations is fundamental to achieving this.

Political advocacy for inclusive development in the Brunca region in Costa Rica

Within the framework of the policy on human rights and equal opportunities for persons with disabilities of the Legislative Assembly of Costa Rica, a project is being undertaken that focuses on access to inclusive development for disadvantaged groups such as indigenous persons with disabilities, who number 14,000. Since 2007, work has been carried out to train indigenous leaders and representatives of organizations of persons with disabilities and public institutions in advocacy and social auditing in relation to the rights of persons with disabilities.

C. Discrimination (double/multiple discrimination)

29. Indigenous peoples face regular and systematic discrimination in many aspects of life. Discrimination experienced by persons with disabilities is very similar and takes diverse forms, including direct and indirect discrimination. This is why combating discrimination on the ground of disability is a main objective and central element of the Convention, similar to the non-discrimination provisions and rationale of the Declaration.

30. For indigenous persons with disabilities, a major issue is discrimination in the availability and quality of services as compared with other persons with disabilities, in addition to discrimination in their societies (being seen as lower than others) and lack of prioritization of their needs, unique capabilities and potential contributions to the development of their communities. Indigenous persons with disabilities may also experience the combined effect of discrimination against different aspects of their identities. For example, an indigenous child may be unable to attend school if

[8] A!ysa Landry, "Navajo Nation fails to provide disability access", *Daily Times* (Farmington, New Mexico), 28 December 2011. Available from http://www.daily-times.com/ci_19629734.

the facilities are not accessible and also if instruction is not available in his or her indigenous language.

D. Access to justice

31. Similar to the mistrust that indigenous peoples frequently have towards the formal justice system, the experience of persons with disabilities is also often negative, given that the justice system has been designed without consideration of their needs. Indigenous peoples who have their own traditional justice systems will need to ensure their accessibility to indigenous persons with disabilities. This would include, for example, ensuring that deaf indigenous persons can communicate in sign language, that the premises are accessible and that information is available in alternative formats.

32. There is a common experience of indigenous women and of women with disabilities that victims of rape are faced with indifference and inaction, often leading to non-reporting of these cases, or, in some instances, to forced marriage. There is a common experience of far-reaching impunity faced by indigenous peoples and persons with disabilities that puts them especially at risk of experiencing situations of violence. Furthermore, the general justice system needs to be accessible to persons with disabilities and also sensitive to indigenous persons with disabilities. Disability awareness training, with rights-based and intercultural approaches, needs to be provided to staff in charge of the administration of justice.

33. Indigenous peoples and persons with disabilities (in particular persons with intellectual and psychosocial disabilities) are usually overrepresented in correctional institutions and other types of detention centres, a situation that can be linked to the inaccessibility of justice. More research would be required into the specific situation of indigenous persons with disabilities in this specific context.

E. Education, language and culture

34. Article 24 of the Convention sets forth extensive obligations on education of persons with disabilities, while the Declaration contains a range of relevant articles and sets forth a dual approach mentioning the right of indigenous peoples to establish and have their own educational systems and institutions and culturally appropriate methods. It also provides that indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination. While indigenous children face challenges in gaining access to appropriate education in their communities, indigenous children with disabilities face further barriers.

35. Specifically, there is a lack of prioritization of education of children with disabilities by their parents, resulting from the lack of awareness of and support by States. Although there is a lack of empirical data, anecdotal evidence suggests that a disproportionately high number of indigenous children with disabilities may be out of school altogether. In New Zealand, in 2006, 42 per cent of Maori persons with disabilities had no educational qualifications, compared with 34 per cent of non-Maori persons with disabilities.[3] It may also be the case that, when indigenous children with disabilities are able to gain access to education, special education is the main option.

36. The Convention clearly establishes that all children with disabilities have the right to be part of the general education system, requiring that children with disabilities be provided with the necessary reasonable accommodation. For indigenous children with disabilities who live in their communities, this means that the indigenous education system must provide them with the required support.

Sign languages

Sign languages are languages in their own right and, in some countries, have been recognized in the national constitution or other legislation as an official national language. Sign languages and linguistic rights are protected in the Convention. Signed language has been documented at least among North American, South American and Australian indigenous peoples.[a] Signed language was used in varying degrees as an independent communication method within most language families indigenous to North America. There is a difference between signed language used as alternative communication by hearing persons and that used by deaf people as a first language in deaf communities, which are separate languages in themselves. In some places, both deaf and hearing indigenous persons have used signed language. For some deaf persons around the world today, the primary means of communication are home signs, which have been described as signs developed when deaf persons are isolated from other deaf persons and need to communicate with hearing people around them. Home signs are the primary means of communication of deaf indigenous peoples in Australia, where there is a lack of consultation with indigenous deaf persons on their language preferences. Several North American indigenous peoples incorporate traditional signed language into their language and education programmes. Contact with a larger sign language or the spreading out of the deaf community can lead to the endangerment or loss of traditional sign language. Sign languages are also usually not included in work on endangered languages.

[a] See Jeffrey Davis, "Evidence of a historical signed lingua franca among North American Indians", *Deaf Worlds*, vol. 21, No. 3 (2005), pp. 47-72.

F. Access to health

37. Disability has often been incorrectly seen as mainly a health issue. The right to health is one of the many rights mentioned in the Convention, but it is not more relevant than the rights to education, participation in public and political life or employment, to cite just a few. Nevertheless, the *World Report on Disability* highlights that persons with disabilities face serious challenges in gaining access to health services, leading to decreased life expectancy. This includes both disability-related health issues and health issues not so related. The *State of the World's Indigenous Peoples* report highlights that indigenous peoples have a lower level of access to health and greater unmet needs than the general population, meaning that their health outcomes and life expectancies are poorer.

38. In the design of intercultural health systems, it will be important to ensure that full (physical and communicational) accessibility to persons with disabilities is part of that design, consistent with the prerequisite that these systems respect human rights as codified in international human rights instruments and international law. Furthermore, the right to self-determination with regard to health implies creating conditions for the full and effective participation of indigenous peoples in the design and management of health systems, which will require adequate attention to be paid to the situation of indigenous persons with disabilities. The commitment to building the human resources necessary for the participation of indigenous peoples in health policy and management, in addition to training non-indigenous health professionals in the cultures and languages of indigenous peoples, should also encompass disability awareness training, including the issue of how to obtain prior and informed consent for any health intervention. The right to health must be linked not only to the recognition of the cultural, ethnic and linguistic diversity of indigenous peoples but also to the right to live in healthy habitats and to land rights.

39. Article 26 of the Convention, on habilitation and rehabilitation, while including health-related rehabilitation, goes well beyond health services. The article stresses that habilitation and rehabilitation are voluntary and indicates that they should be provided at the community level, a concept that is known in the disability community as community-based rehabilitation. In the specific context of indigenous peoples, article 26 should lead to community-based rehabilitation initiatives that promote the participation and inclusion of indigenous persons with disabilities and that are designed in a culturally appropriate way by indigenous peoples with the active involvement of indigenous persons with disabilities.

Intergenerational trauma

Indigenous peoples throughout the world suffer from intergenerational or historical trauma resulting from forced assimilation and displacement. Psychosocial disabilities and unresolved grief also resulted from the removal of children removed from their parents and their subsequent institutionalization. In addition, indigenous peoples were often removed from their lands and placed on to missions or reservations. In Canada, some 150,000 aboriginal children were removed and separated from their families and communities to attend residential schools. Two primary objectives of the residential schools system were to remove and isolate children from the influence of their homes, families, traditions and cultures and to assimilate them into the dominant culture. While most Indian residential schools ceased to operate by the mid-1970s, the last federally run school closed in 1997 and it was only in 2010 that Canada announced that it would repeal the parts of the Indian Act that allowed for the establishment of the schools. Advocates were eventually able to achieve a settlement, an apology and a truth and reconciliation commission. As part of the settlement, some mental health and healing services are being made available to survivors.

In the United States of America, native children were put in boarding schools from 1869 to the 1960s where, in addition to the traumas associated with forced separation from their families and forced assimilation, many experienced physical and sexual abuse. The mental health side of such

history and abuse is not always well known. In Australia, abuse and neglect in institutions were reported. Post-traumatic stress disorder and anxiety were also some health consequences identified by indigenous persons with disabilities, but are not widely known. A residual and legitimate fear of assessment on the part of indigenous persons with disabilities in some communities appears to pose a major challenge, which can be mitigated by training, the involvement of indigenous peoples as key workers and additional steps to address past wrongs.

G. Adequate standard of living

40. Many indigenous persons with disabilities live in poverty and, in some cases, because of a development model that causes poverty. There is a vicious cycle of disability and poverty. For indigenous persons with disabilities, the situation is worse. Living in mainly rural areas also has a significant impact on poverty and persons with disabilities. They often lack the basics such as food, clothing, sanitation, support for the basic necessities of life, assistive devices, mobility aids and health and rehabilitation services. Also lacking are clinics, disability skills training and disability workers, in addition to employment programmes, job skills training and transition to employment programmes, often resulting in indigenous persons with disabilities lacking the skills required to earn a living.

41. Often, indigenous persons with disabilities are unaware or do not avail themselves of disability support pensions available to persons with disabilities. For indigenous persons with physical disabilities, there are usually many obstacles to moving around in the environment of their communities, leading to dependence and poverty. Even when technical aids are available, moving around in a wheelchair is mostly impossible, resulting in people either remaining in their homes or being forced to leave their community to move to urban settings. Individual autonomy, however, is a general principle of the Convention (para. (n) of the preamble and art. 3) and is closely related to the rights to liberty and security of the person and personal mobility, among others. More efforts need to be made to ensure equal access to land, natural resources and capital for indigenous persons with disabilities, paying special attention to indigenous women with disabilities.

H. Living in the community

42. Article 19 of the Convention guarantees the right of persons with disabilities to live independently and be included in the community. In many countries, there is a widespread lack of State action to provide services and support in the community that are designed in consultation with persons with disabilities, often resulting in the bad practices of State and private institutionalization of persons with disabilities.

43. While there are jurisdictional and user consultation issues relating to service provision for many persons with disabilities around the world, the contexts are even more specific for indigenous peoples. The different relationship with State services and jurisdictional and cultural issues play key roles. Where there are State services available to indigenous persons with disabilities, service providers rarely include

indigenous professionals who would have the same cultural understanding as an indigenous person with disabilities.[9] Non-indigenous providers may lack training in or awareness of relevant cultural approaches or issues. There is also a lack of support or services within many indigenous communities. Support available to indigenous persons with disabilities must therefore be analysed both for its compliance with the Convention and its respect for indigenous cultures, institutions and organizations.

44. In some cases, indigenous persons with disabilities, owing to the lack of adequate support services in their community, live in group home settings, far away from their communities, where they are not supported to participate in community events and where staff are not supported to develop culturally competent skills to facilitate such participation. The repercussions of previous practices of separation from their communities continue to affect many indigenous persons with disabilities today, whether directly or indirectly. Indigenous persons with disabilities in New South Wales, Australia, have expressed fear that living in Government-owned or Government-run accommodation, away from their families and communities, is akin to the historical removal of Aboriginal people from their communities.[10]

45. Public resources need to be allocated by States at the community and organization levels to build the capacity of indigenous peoples so that they can implement the Convention in a culturally appropriate way. States should provide resources for capacity-building and the development of such new initiatives.

I. Indigenous children with disabilities

46. There is much evidence that the lack of support and services for families with indigenous children with disabilities has led to the displacement of families from their communities and often even to the separation of children from their families and communities. In many societies in which indigenous peoples suffer the intergenerational trauma caused by, among other things, forced assimilation and the removal of children from their families, indigenous children with disabilities continue to be at a high risk of being separated from their families and placed in institutions or with non-indigenous families.

47. Support services for indigenous families with children with disabilities need to be designed in a culturally sensitive way and particular attention will need to be paid to avoiding the use of an approach that might replicate, to some extent, past practices that have created traumas. This will also comply with the principle of best interest of the child, as indicated in the Convention on the Rights of the Child and reiterated in the Convention on the Rights of Persons with Disabilities.

48. Articles 7 and 10 of the Convention on the Rights of Persons with Disabilities protect the right to life of children with disabilities. Customs must be respected but only insofar as they do not violate international human rights law, meaning that any practices of infanticide of children with disabilities would be contrary to those

[9] National Council on Disability, *Understanding Disabilities in American Indian and Alaska Native Communities Toolkit Guide* (Washington, D.C., 2003).

[10] Aboriginal Disability Network, New South Wales, *Telling it like it is: a report on community consultations with Aboriginal people with disability and their associates throughout NSW, 2004-2005* (Sydney, 2007).

provisions and other international human rights law.[11] Article 18 of the Convention mandates States to ensure that all children with disabilities are registered at birth. There is some evidence that children with disabilities, including indigenous children with disabilities, are overrepresented among non-registered children. Increasingly, indigenous institutions are officially recognized to have the responsibility of birth registration. It must be ensured that such institutions do not discriminate against children with disabilities.

Indigenous-led service delivery systems

In some places, such as North America, there are efforts to have indigenous-led service delivery systems. In Canada, First Nations indigenous persons with disabilities in Manitoba and their allies proposed a service delivery model that was discussed at an All Chiefs Assembly in Manitoba in 2007. It identified that the Government should provide adequate services and funding to have a service delivery system driven and controlled by the First Nations that would then be more balanced and equal for children. The model entails a First Nations disability resources centre, regional centres, mobile therapy units, community-based support, resources and equipment, and training and capacity-building for the First Nations in cooperation with local universities. It entails a phased approach, gradually increasing delivery by the First Nations as they gain the necessary resources and capacity. For indigenous children in these communities and their families, the new system would make a specific difference in their lives and in the life of the community. Indigenous children with disabilities would not have to leave their home or be separated from their families to gain access to services, but instead can be part of their families, maintain their culture and, especially for those in the north, maintain their language. Currently, it remains a model plan and has not yet been implemented.

J. Indigenous women with disabilities

49. Available evidence shows that girls and women with disabilities are at higher risk of violence than girls and women without disabilities (see A/HRC/20/5) and that indigenous women are disproportionately victims of sexual violence.[12] Violence against girls and women with disabilities happens at home, but also in schools, residential institutions and in disability services. The definition of "violence" is broad and includes specific forms of violence against women with disabilities. Articles 14 to 17 and 25 of the Convention mandate States to have policies in place to tackle this problem.

50. The situation of indigenous women with disabilities varies between communities. Indigenous women with disabilities experience challenges that other indigenous women also face, such as lack of representation in government, including in

[11] Henriksen, "Key principles", p. 57.

[12] Amnesty International, *Maze of Injustice* (New York, 2007).

indigenous parliaments; lack of good hospital networks; lack of consultation; multiple forms of discrimination; poor access to education, health care and ancestral lands; high rates of poverty; and increased risk of violence and sexual abuse, including trafficking. Empowerment of indigenous women is sometimes portrayed as an imposition of Western values. Indigenous women with disabilities often experience additional discrimination, such as more restrictions on their legal capacity and lack of an accessible legal system.

51. As with other women with disabilities, some indigenous women with disabilities are not seen as capable of raising children and there are barriers to marriage. A number of studies have shown that indigenous women and women with disabilities are at particular risk of involuntary sterilization programmes as an instrument of population control, often inspired by eugenics. To be effective, all policies and measures targeting indigenous women and girls with disabilities need to be designed in a culturally appropriate way.

K. Emergency situations and disaster risk reduction

52. Article 11 of the Convention highlights that persons with disabilities are especially vulnerable and must be assisted and protected in situations of natural and human-caused emergencies. The risk of exposure of indigenous persons with disabilities to such emergencies may be elevated because indigenous peoples often live in areas of special risk relating to climate change (Africa, coastal zones, the Pacific and the Arctic), militarization and armed conflict and the impact of extractive industries.

53. Initiatives that seek to make indigenous peoples more resilient to such challenges need to be undertaken in a manner that is inclusive of disability and fully participatory.[13] Protocols that are to be established, including those that foresee the displacement of the community, need to encompass actions targeting and involving indigenous persons with disabilities. Any resettlement must have the full, free, prior and informed consent of indigenous peoples or, in the case of natural disaster or other emergency, be inclusive of disability. Similarly, all emergency and disaster risk reduction efforts should address the situation of indigenous persons with disabilities. In this regard, the Hyogo Framework for Action, which refers to the "disabled", states clearly that the information should incorporate relevant traditional and indigenous knowledge and cultural heritage and be tailored to different target audiences, taking into account cultural and social factors.

V. Conclusions

54. The available information on indigenous persons with disabilities shows a serious gap in the implementation and enjoyment of a wide range of rights, ranging from self-determination and individual autonomy to access to justice, education, language, culture and integrity of the person. There are significant unmet needs and

[13] See, in this regard, annex 3 to the Yogyakarta Declaration on Disaster Risk Reduction in Asia and the Pacific 2012, adopted at the fifth Asian Ministerial Conference on Disaster Risk Reduction, held in October 2012 in Yogyakarta, Indonesia, which contains a statement of individuals and organizations concerned with disability.

rights that are not being addressed, of which gaps in access to health, life expectancy, educational qualifications, income, safety of the person and participation in decision-making are just a few examples.

55. Urgent action is required by Member States, the United Nations, indigenous peoples, indigenous peoples' organizations and organizations of persons with disabilities, among others. They must take immediate steps to improve the situation of indigenous persons with disabilities, to consult them, to enable them to be heard and to ensure that they are empowered to claim their rights as set forth in the two main legal standards, the Convention on the Rights of Persons with Disabilities and the United Nations Declaration on the Rights of Indigenous Peoples, for which there exist major implementation gaps for this group. More attention, including research, needs to be paid to this group by all stakeholders, in particular indigenous peoples and organizations of persons with disabilities. States need to allocate public resources at the community and organization levels to build the capacity of indigenous peoples so that they can implement the Convention in a culturally appropriate way. For policies and services to be culturally sensitive and relevant, indigenous persons with disabilities must be involved in their design. The unique experiences and knowledge of indigenous persons with disabilities must be universally respected.

VI. Recommendations

A. Main recommendations

56. Relevant United Nations agencies dealing with indigenous peoples' issues should take action on the inclusion of indigenous persons with disabilities in all their activities, make their websites accessible to persons with disabilities, promote increased participation of indigenous persons with disabilities in their annual sessions and consider having expert sessions on indigenous persons with disabilities.

57. The President of the General Assembly should ensure that the high-level meeting on disability and development, to be held in 2013, and the World Conference on Indigenous Peoples, to be held in 2014, in addition to their preparatory processes, are inclusive of and accessible to indigenous persons with disabilities and take place with their full and effective participation. The President should also ensure that their views and interests are reflected in the agenda and the background papers of the meetings.

58. Indigenous organizations should become more proactively inclusive of indigenous persons with disabilities by ensuring a barrier-free environment and by recognizing the existence of indigenous persons with disabilities and their value as full members of indigenous peoples.

59. Organizations of persons with disabilities should include the perspectives, voices and participation of indigenous persons with disabilities.

60. United Nations entities, including the United Nations Development Programme, the United Nations Children's Fund, the United Nations Entity for Gender Equality and the Empowerment of Women, the United Nations Population Fund, the World Health Organization, the United Nations International Strategy for Disaster Reduction and the regional commissions, should include indigenous persons with disabilities in their work so as to support the establishment and develop the capacity

of organizations of indigenous persons with disabilities. They should specifically report on their work in these areas in their dialogues with the Permanent Forum on Indigenous Issues.

61. States should include information on the rights of indigenous persons with disabilities when they submit reports to the Permanent Forum, the Committee on the Rights of Persons with Disabilities, other relevant treaty bodies and the Working Group on the Universal Periodic Review. States should allocate funding to build the capacity of indigenous peoples to provide culturally adequate services and for the establishment and development of the capacity of organizations of indigenous persons with disabilities, including a focus on indigenous women with disabilities.

62. States should further support the participation of indigenous persons with disabilities in consultations regarding the post-2015 development agenda and ensure that their needs and perspectives are included in the resulting framework.

B. Other relevant recommendations

Recommendations to indigenous peoples

63. Indigenous peoples should include indigenous persons with disabilities who are familiar with their own rights in their teams negotiating the standards currently being elaborated by the Organization of American States.

Recommendations to States

64. States should help to guarantee the right to life of indigenous persons with disabilities by ensuring that children with disabilities are registered at birth and take measures to prevent infanticide of children with disabilities.

65. States should make sign language education available for deaf indigenous persons with disabilities and respect relevant cultural rights in the Convention and the Declaration. They should consult deaf indigenous persons on their issues, needs and preferences. They should pay attention to the unique contribution that deaf indigenous persons make to the cultural heritage of indigenous peoples and of the world.

66. States should create high-level Government task forces that meaningfully include persons with disabilities, indigenous peoples and their representative organizations to review existing Government programmes and policies and to prepare comprehensive plans for the implementation of the Convention and the Declaration, respectively.

67. State donors and development partners are encouraged to implement article 32 of the Convention inclusively of indigenous persons with disabilities.

Recommendations to the United Nations system

68. The special rapporteurs on the rights of indigenous peoples and on disability should include meetings with indigenous persons with disabilities in their country visits and request the United Nations country team and others providing support in the organization of meetings with Governments and civil society to ensure that meetings take place in venues accessible to persons with disabilities.

69. The Department of Economic and Social Affairs should prepare a series of briefing notes relating to the rights of indigenous persons with disabilities, similar to the work that has been carried out to mainstream gender in the Permanent Forum, and a publication that identifies synergies and complementarity of obligations and implementation. All this work should be performed in cooperation with persons with disabilities and indigenous peoples and their representative organizations.

70. The Department of Economic and Social Affairs should work with Member States and relevant United Nations bodies, including the regional commissions, to improve the collection and dissemination of disaggregated data, statistics (as required by article 31 of the Convention), information and knowledge regarding the situation of indigenous persons with disabilities, in addition to the use of that information.

71. The Inter-Agency Support Group on Indigenous Issues and the Committee on the Rights of Persons with Disabilities should explore synergies and opportunities to advance their work in relation to indigenous persons with disabilities, including through the use of the United Nations Development Group Guidelines on Indigenous Peoples' Issues and the guidance note on integrating the rights of persons with disabilities in United Nations programming at the country level.

72. The Expert Mechanism on the Rights of Indigenous Peoples should include the rights of indigenous persons with disabilities in its work as a cross-cutting issue, consistent with the Convention and the Declaration, support efforts to make the voices of indigenous persons with disabilities heard and consult indigenous persons with disabilities and their representative organizations in the preparation of studies.

73. The Committee on the Rights of Persons with Disabilities should consider making recommendations to States parties to the Convention concerning the situation of indigenous persons with disabilities.

74. Relevant United Nations mechanisms and funds, including the United Nations Partnership to Promote the Rights of Persons with Disabilities, the multi-donor trust fund of the United Nations-Indigenous Peoples' Partnership and the Indigenous Women's Fund of the International Indigenous Women's Forum, should include indigenous persons with disabilities in projects at the country level in cooperation with indigenous persons and women with disabilities and their representative organizations.

75. The International Labour Organization should step up its work to advance the rights of indigenous persons with disabilities, in keeping with Convention No. 169, including with regard to submission of country reports on implementation of the Convention, in addition to the Convention on the Rights of Persons with Disabilities and the Declaration, and ensure that indigenous persons with disabilities are included in efforts to implement the new International Labour Organization recommendation on national floors of social protection.

76. The Office of the United Nations High Commissioner for Human Rights should ensure the accessibility for persons with disabilities of the reports of the Special Rapporteur on the rights of indigenous peoples, the Expert Mechanism and related websites, in line with relevant standards such as the Web Accessibility Initiative Web Content Accessibility Guidelines, in cooperation with United Nations-wide initiatives to improve the accessibility of reports and websites.

77. The Office of the United Nations High Commissioner for Human Rights should proactively reach out to indigenous persons with disabilities and encourage their participation in its Indigenous Fellowship Programme.

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Item 5 of the provisional agenda*
Comprehensive dialogue with United Nations agencies and funds

Indigenous people's rights and safeguards in projects related to reducing emissions from deforestation and forest degradation

Note by the Secretariat

Pursuant to a decision of the Permanent Forum on Indigenous Issues at its tenth session (see E/2011/43, para. 29), Paul Kanyinke Sena, Myrna Cunningham and Bertie Xavier, members of the Permanent Forum, conducted a survey of indigenous people's rights and safeguards in projects related to reducing emissions from deforestation and forest degradation. The report is hereby transmitted to the Forum

* E/C.19/2013/1.

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Indigenous people's rights and safeguards in projects related to reducing emissions from deforestation and forest degradation

Summary

Activities related to reducing emissions from deforestation and forest degradation can have a profound impact on the rights and livelihoods of indigenous peoples. Depending on the rules in place globally and in each country, in particular those regarding access to information, free, prior and informed consent and governance, the impact may be positive or negative.

The present report aims to summarize the current status of activities under the REDD-plus mechanism (reducing emissions from deforestation and forest degradation in developing countries and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks) and their possible impact on the rights and livelihoods of indigenous peoples. It considers the nature of potential benefits to indigenous peoples and how those benefits could be secured through the various safeguard mechanisms being developed.

I. Introduction

1. A performance-based mechanism is being negotiated under the United Nations Framework Convention on Climate Change under which developed countries would compensate developing countries for reductions in their greenhouse gas emissions from deforestation and forest degradation.

2. The issues of greenhouse gas emissions from deforestation and ways to promote and reward the avoidance of deforestation were not included in the Kyoto Protocol to the Framework Convention owing to their technical and operational complexity and the lack of a political consensus. The issue of deforestation avoidance was brought into the Framework Convention negotiations at the eleventh session of the Conference of the Parties, held in Montreal, Canada, in 2005. Since 2005, and especially since the thirteenth session, held in Bali, Indonesia, in 2007, the secretariat of the Framework Convention has been considering the negotiation of a mechanism to reduce emissions from deforestation and forest degradation in developing countries (REDD) under the Framework Convention to reward countries that are able to reduce levels of deforestation and forest degradation or avoid future deforestation.

3. Under the Bali Action Plan (FCCC/CP/2007/6/Add.1, decision 1/CP.13), adopted by the Conference of the Parties to the Framework Convention at its thirteenth session, the concept of REDD was broadened to cover policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries (see FCCC/CP/2007/6/Add.1, decision 2/CP.13). The resulting broadening of the concept of REDD signified a recognition that forests were more than stocks of carbon and that a future mechanism should be concerned not just with climate change mitigation but also with simultaneously capturing the co-benefits in the form of conservation and sustainable management of forests. This expanded concept came to be known as REDD-plus.

4. The process of agreeing to the methodological, operational and financial framework for a future REDD-plus mechanism under the Framework Convention has proved to be slower and more complicated than originally envisaged. Issues related to the mechanism have been the subject of negotiation at successive Framework Convention meetings since 2005, and there are still outstanding questions to be resolved. Many participants and observers now feel that an agreed performance-based mechanism operating at the national level in participating countries is unlikely to be fully operational before 2020.

5. In the meantime, the types and the number of REDD-related activities and projects have grown to a point where their impact on climate change mitigation and forest conservation may no longer depend on the future outcomes of the negotiations under the Framework Convention. The types of programmes and projects categorized as REDD-plus include:

- "REDD readiness" activities: tropical forest countries assisted by international agencies and donors are undertaking the preparatory activities necessary to build national capacities and enable countries to comply with the rules and procedures of the future mechanism

- Preparations for the entry into force of cap-and-trade legislation in some developed countries that may permit carbon offsets in developing countries that support REDD-plus
- REDD-plus activities at the subnational level involving partnerships between State and provincial administrations in developed and developing countries
- Individual REDD-plus projects: activities in defined forest areas involving local communities and national or foreign non-governmental organizations (NGOs), private companies and/or other types of intermediaries, undertaken as part of voluntary carbon markets or in anticipation of the entry into force of regulatory cap-and-trade regimes in developed countries

6. Alongside the growth in action designed to reduce emissions from deforestation and forest degradation, there is also a growing awareness that national climate change action may be driven by a country's other development priorities. Climate concerns and development are not necessarily competing and may well be complementary policy priorities. This can be observed, for example, in some countries' national agriculture or transport policies. In the case of forests and climate, the acknowledgement that conservation and sustainable forest management lead to emission reductions has restored the issue of forests to a position of prominence in the international policy agenda.

7. REDD-plus can be a mechanism for achieving sustainable development outcomes that benefit tropical forests and their populations while simultaneously delivering climate change mitigation benefits. For indigenous peoples and other forest-dependent communities concerned with securing rights and enhancing sustainable livelihoods, REDD-plus may offer both a promising new policy environment and access to resources that enable those rights and livelihoods to be realized. Whether the impact of REDD-plus policies and activities on indigenous peoples will be positive or negative will depend largely on the recognition of their rights, their level of participation and the nature and effectiveness of safeguards to be applied at the international and national levels.

II. Deforestation, forest degradation and climate change mitigation

8. Deforestation and forest degradation are responsible for an estimated 17 per cent of global greenhouse gas emissions. Reducing the rates of deforestation and forest degradation is a way to reduce global emissions and thereby limit dangerous increases in average global temperatures. In addition to being an end in itself, REDD-plus is a way to "buy time" by reducing in the short term the rate of average global temperature increases, thereby allowing the complex structural changes that will facilitate the switch to low-carbon economies to be implemented before dangerous thresholds are reached.

9. Traditional indigenous territories encompass up to 22 per cent of the world's land surface and coincide with areas that hold 80 per cent of the planet's biodiversity. The greatest diversity of indigenous peoples coincides with the world's largest tropical forest areas in the Americas, Africa and Asia, of which only 11 per cent of world forest lands are legally owned by indigenous peoples and

communities, creating continuous tension because of the adoption of decisions without their participation.

10. The focus of REDD-plus is commonly assumed to be tropical forests. However, there is increasing evidence that emissions from tropical savannahs, wetlands and peat lands are similar to those from tropical forest ecosystems. Developing countries with those ecosystems can decide whether their national REDD-plus programme will apply equally. This is important in the light of the number of indigenous peoples worldwide whose territories can be found in those ecosystems.

III. Potential benefits and risks to indigenous peoples

11. The potential benefits to indigenous peoples and communities of well-designed and well-governed REDD-plus programmes include:

- Recognition in legislation and public policies of land tenure rights for indigenous peoples and other forest communities as Governments seek to comply with internationally agreed safeguard systems
- Respect for and implementation of indigenous knowledge and traditional forest management systems
- Generation of revenues that Governments, in agreement with indigenous peoples, can direct to services and investments that benefit forest communities
- Maintenance of regulatory ecosystem services (for example, ancestral land-use regulations, water production, flood control or pollination) that enhance community capacity for adaptation to climate change
- Maintenance of provisioning ecosystem services (for example, traditional medicines and diversified food provision), which could cushion the impact of reduced agricultural yields on communities that may result from climate change
- New income streams for forest communities and dwellers obtained from selling credits in carbon markets, participating in conservation payment programmes, receiving carbon fund distributions or providing services to forest-monitoring processes

12. On the other hand, there is a risk that valuing forests for their climate change mitigation capacity could mean that REDD-plus activities undermine some of the ecosystem services that forests provide and that are especially important to the lives and livelihoods of indigenous peoples and other forest communities. Similarly, REDD-plus could create new incentives for Governments to restrict communities' access to forests. The insecurity of land tenure for many indigenous peoples and other forest-dependent communities may make them especially vulnerable to such risks, which can include:

- Violations of customary land rights, leading to the loss of access to forests, land use conflicts or physical displacement from forests
- Marginalization as Governments seek to reserve forest carbon revenues for the State, which may entail stalling or reversing recent trends towards the

decentralization of forest ownership and management responsibilities to communities

- Delinking forest carbon rights from forest ownership or management rights, thereby denying the fair participation of communities in the financial benefits of forest carbon programmes
- Communities' inability to participate in conservation payment programmes owing to the non-recognition of property rights (either to forests or to forest carbon), a lack of information or high implementation or transaction costs or because their historical contributions to conservation paradoxically make them ineligible
- Exploitative carbon contracts that could lead communities to unknowingly accept terms that sign away land-use rights, assume liability for forest loss or accept payments that undervalue the true opportunity costs of the land use foregone
- Inadequate governance and safeguard systems that lead to the capture by others, such as local elites, corrupt officials or criminal networks, of REDD-plus benefits
- Decreased local food production, creating food security risks and resulting in the loss of livelihood
- Increased tension between the recognition of indigenous self-government regimes and the centralized management of areas under REDD-plus

13. Recognition and agreement that the rights of indigenous peoples and local communities must be considered when implementing REDD actions, as standards and safeguards, that the full and effective participation of indigenous peoples and other forest-dependent communities in policy and programmatic decision-making must be ensured, that agreed safeguard systems have to be put in place and that information on the operations of such safeguard systems needs to be made available are reflected in decisions under the Framework Convention and from other processes related to REDD-plus. There is also agreement to respect the knowledge and rights of indigenous peoples, taking into account relevant international obligations, including those in the United Nations Declaration on the Rights of Indigenous Peoples.

14. A consequence, however, of the multiplicity of REDD-plus initiatives and programmes has been the emergence of multiple sets of standards and safeguards. Several indigenous organizations have developed guidelines, training programmes, research and exchange visits to assist indigenous peoples in order to be prepared when dealing with REDD-plus programmes.[1] An urgent task is to ensure the mutual compatibility of the differing safeguards at the highest level of protection and to facilitate their implementation, such that Governments and other REDD-plus actors are given clear and consistent guidelines for implementation and are not overburdened by unnecessarily bureaucratic or overlapping requirements that may

[1] Leonardo A. Crippa and Gretchen Gordon, "International law principles for REDD+: the rights of indigenous peoples and the legal obligations of REDD+ actors", working paper (Helena, Montana, and Washington, D.C., Indian Law Resource Center, 2012). Available from www.indianlaw.org.

be beyond their administrative capacity to implement or may involve high transaction costs.

IV. Programmes and projects under the mechanism

15. The ultimate goal of the REDD-plus negotiations is the establishment of a system of performance-based payments for emission reductions achieved by reducing deforestation and forest degradation. This would be "payment by results", that is, payments would be made only at the end of the agreed period and following verification that the agreed reductions had been achieved.

16. Since the adoption of the Cancun Agreements in 2010, the full operationalization of a global REDD-plus mechanism under the Framework Convention has been conceived as a three-phase process comprising:

(a) A preparation and readiness phase, consisting of national REDD-plus strategy development, capacity-building, institutional development and demonstration activities;

(b) An early-action phase, involving the piloting and testing of strategies, capacity enhancement, the development of a REDD-plus project portfolio, the setting of the reference levels and the creation of the measurement, reporting and verification infrastructure;

(c) Performance-based payments, representing full REDD-plus implementation mode, with quantified emission reductions, certified emission reductions and benefit sharing.

17. Under the 2009 Copenhagen Accord, developed countries committed to providing $30 billion in "fast-start financing" for the period 2010-2012 and to jointly mobilizing $100 billion a year by 2020 to address the needs of developing countries. By November 2012, funders had reported allocations to fast-start REDD-plus activities amounting to approximately $5.2 billion, covering 731 arrangements involving 40 countries.[2]

18. The mechanisms for channelling the fast-start financing included multi-donor funds, such as the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries administered by the Food and Agriculture Organization of the United Nations (FAO), the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP); the Forest Carbon Partnership Facility administered by the World Bank, which supports 37 forest developing countries (14 in Africa, 15 in Latin America and the Caribbean and 8 in Asia-Pacific) to develop reference scenarios, adopt a REDD-plus strategy, design monitoring systems and set up REDD-plus national management arrangements in preparation for future systems of financial incentives for REDD-plus; and the Forest Investment Programme within the World Bank's Climate Investment Funds, which supports REDD-plus efforts in eight developing countries.

19. Those funds were intended to be interim arrangements during the readiness phase, with the expectation that the Green Climate Fund would supersede them in

[2] www.reddplusdatabase.org.

the future. In the longer term, how the full operations of the phase 3 performance-based payments system will be funded remains undecided. Decisions adopted at the sessions of the Conference of the Parties in Durban, South Africa, and Doha allow for the possibility of funding through market and non-market mechanisms.

20. Another category of REDD-plus activities is taking place at the subnational level through the Governors' Climate and Forests Task Force, a REDD-plus network started in 2008 by the State of California that currently involves 19 State and provincial governments, including 6 from the Brazilian Amazon region and 6 from Indonesia, as well as subnational governments from Mexico, Nigeria and Peru. The main motivation behind the Task Force is the entry into force of the California cap-and-trade programme, which uses a market-based mechanism to lower greenhouse gas emissions. The California programme will be second in size only to the European Union emissions trading system on the basis of the amount of emissions covered.

21. As from the beginning of 2013, the cap-and-trade rules apply to large electric power plants and large industrial plants. In 2015, they will extend to fuel distributors. At that stage, the programme will encompass about 360 businesses throughout California and nearly 85 per cent of the state's total greenhouse gas emissions. Up to 8 per cent of the total compliance obligation can be met through offsets, which must comply with the protocols approved by the California Air Resources Board and are initially limited to projects in the United States of America.

22. However, the framework is in place for the international expansion of the California programme, which will allow offsetting through projects in other countries. In 2010 the governments of California, Chiapas, Mexico, and Acre, Brazil, signed a memorandum of understanding to begin the process of developing a state-to-state sectoral REDD linkage recommendation that will provide the foundation for eventual submission to the California Air Resources Board, as defined in the California cap-and-trade programme (art. 3). In other words, the three states create the possibility of future offsetting in Chiapas and Acre by companies in California subject to the cap-and-trade legislation. Simultaneously, Acre has enacted into law a state environmental service incentive system designed to reduce deforestation and deliver benefits to the state's indigenous groups, extractivist communities and small-scale rural producers, including through offsets under the California programme.

23. A similar possibility arises in the context of the Carbon Farming Initiative of Australia, a carbon offsets scheme that is part of the country's carbon market and that allows Australian farmers and land managers, including indigenous Australians, to earn carbon credits by storing carbon or reducing greenhouse gas emissions on the land. The credits can then be sold to people and businesses wishing to offset their emissions. The Initiative also helps the environment by encouraging sustainable farming and providing a source of funding for landscape restoration projects. Through the Initiative, indigenous communities are able to reduce emissions and generate sustainable incomes through the Australian carbon market. Although the Initiative is currently limited to Australian land managers, the transferability of the methodology and project experience to indigenous land managers in developing countries is currently being explored.

24. The third category of REDD-plus activities, perhaps the category under which indigenous communities will have the most direct experience, consists of REDD-plus projects involving emission reductions in specific forest areas. This category differs from previous categories of national and subnational REDD-plus activities ("jurisdictional REDD-plus") by the existence of a direct relationship between the forest community and the REDD-plus developer.

25. There is a wide spectrum of such local REDD-plus projects. At one end there are cases where the initiative for the project springs from a community decision, perhaps as a way of funding its own previously determined territorial management and community development aspirations. In such cases the community may have the capacity necessary to negotiate and implement the project, or it may be able to call upon the technical assistance of trustworthy intermediaries with the necessary skills and contacts (for example, NGOs or Government agencies) that are able to broker funding arrangements with individual companies that, for reputational reasons, as part of their corporate social responsibility policy or in anticipation of future cap-and-trade obligations, are disposed to invest in voluntary REDD-plus activities. Under such a scenario, it is likely that the arrangement will be certified under one of the voluntary carbon standards and preconditions of free, prior and informed consent and that mutually agreed terms will be met. Thus, an indigenous community that enjoys legal recognition as such and exercises clear control of its territory is, in theory, in a strong position to make use of REDD-plus to advance its community-defined strategy for future livelihood development, environmental management and cultural survival — if it decides that that is indeed the way to achieve its long-term objectives.

26. At the other end of the spectrum are the numerous reported cases of REDD-plus projects involving indigenous communities that appear to have signed highly disadvantageous agreements as a consequence of a lack of understanding of the implications, a lack of access to advice or information, bad faith on the part of the REDD-plus developer and in some cases, a breakdown in community governance arrangements or corruption on the part of local officials. Terms of such purported contracts have included, for example, "agreements" that the community will cease to use its forests for any production purposes, including subsistence, hunting and gathering activities. Notwithstanding the fact that the community (or certain members of the community claiming to act on its behalf) may have signed an agreement, clearly the free, prior informed consent of the community has not been given, nor are the terms mutually agreed by any reasonable definition of the terms. In some cases, the document has been prepared in the language of the developer with no faithfully translated version provided to the community. Such cases have been observed in many regions, including the Amazon and the Congo Basin countries and in the Asia-Pacific region.

V. Safeguards and standards

27. The term "safeguards" refers to the need to protect against social and/or environmental damage or harm. It is often used in reference to measures, such as policies or procedures, designed to prevent undesirable outcomes of actions or programmes. Safeguards can be an effective risk management policy, as they ensure that environmental and social issues are evaluated in decision-making, help to assess and reduce the risks and provide a mechanism for consultation and the disclosure of

information. Standards are a set of principles, criteria and indicators and a process for monitoring, reporting and verification. For indigenous peoples the use of these terms refers to respecting and implementing the rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples and other relevant instruments.

28. The diversity of ideas about REDD-plus has ensured broad applicability during the initial phases of national readiness activities and project development. To guarantee sustainability, safeguards, which are ways to create standards for social rights and biodiversity, are included in the goals for REDD-plus, next to reducing emissions. REDD-plus has so far been implemented in ways that allow for different emphasis on carbon and non-carbon values, enabling a wide range of actors with different areas of interest to interpret and launch REDD-plus activities according to their own priorities. The first years of REDD-plus have shown that, where private investors or donor Governments are involved, the primary focus has been on carbon and risk mitigation. Non-carbon values, on the other hand, have been more strongly prioritized by NGOs.[3]

29. There are also groups of developing countries, for example Alianza Bolivariana para los Pueblos de Nuestra América, that oppose the carbon market unless they provide guarantees on the rights of indigenous peoples.[4] Within the Framework Convention negotiations, the groups are seeking (a) compliance with social and biodiversity standards as a precondition for funding; and (b) ways in which safeguards are addressed and respected, which are related to the setting up of mechanisms for their enforcement or verification.

30. A key point for future guidance on REDD-plus safeguards is that reporting (measurement, reporting and verification) needs to be sufficiently flexible and should aim to build on and improve existing in-country capacity. While international guidance is needed, the REDD-plus safeguard information system must be country-driven and sensitive to national circumstances. Countries have varying levels of information on REDD-plus and forests and different capacities to collect information on, monitor and report on safeguards. The information and capacity will improve as REDD-plus programmes are implemented, but early reporting requirements should respect the situation at the country level. The main challenge is to ensure indigenous peoples' full and effective participation in the process.

31. There are a number of emerging processes for the integration of safeguards within national REDD-plus programmes. Although they share commonalities, they have differences in content and approaches. The two major multilateral REDD programmes, the Forest Carbon Partnership Facility and the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries are both in the process of finalizing guidance on social and environmental safeguards for the planning (REDD readiness phase) and implementation of national REDD-plus programmes. The United Nations Collaborative Programme approach was presented to its Policy Board, and the Forest Carbon Partnership Facility approach, the strategic environmental and social

[3] Constance L. McDermott and others, "Operationalizing social safeguards in REDD+: actors, interests and ideas", *Environmental Science and Policy*, vol. 21, 2012.

[4] Such is the case of Nicaragua, which does not use the term "REDD-plus" and has prepared a readiness preparation proposal based on its national strategy for avoided deforestation and respect for indigenous rights and autonomy.

assessment and related guidance are contained in the version 5 working draft of the readiness preparation proposal template, available on the Facility's website (www.forestcarbonpartnership.org). As mentioned previously, other relevant stakeholders have also prepared guidelines.[5]

32. The need for safeguards is also reflected in a number of recent bilateral agreements. For example, the International Climate and Forest Initiative of the Government of Norway has made its funding to Guyana and Indonesia conditional upon the implementation of certain governance requirements aimed at limiting deforestation.

United Nations Framework Convention on Climate Change

33. The principal safeguard system for national REDD-plus activities is that adopted by the parties to the United Nations Framework Convention on Climate Change in 2010 and contained in appendix I to the Cancun Agreements (FCCC/CP/2010/7/Add.1, decision 1/CP.16). As a decision of the Conference of the Parties, it constitutes an obligation on the parties to the Framework Convention and is thus binding in a way that the guidelines adopted by multilateral and bilateral REDD-plus readiness initiatives are not. As discussed below, the safeguards adopted by those initiatives are designed to be compatible with and support the Framework Convention safeguards.

34. The Conference of the Parties, in its decision on REDD-plus adopted in 2007 (FCCC/CP/2007/6/Add.1, decision 2/CP.13), recognized that the needs of local and indigenous communities should be addressed when action is taken to reduce emissions from deforestation and forest degradation in developing countries. The Bali Action Plan called for the consideration of issues, including REDD-plus, to be undertaken by an Ad Hoc Working Group on Long-term Cooperative Action. The Working Group was mandated to complete its work in 2009 and present the outcomes to the Conference of the Parties at its fifteenth session, held in Copenhagen in 2009, for adoption. As the Working Group was not ready to present its agreed outcomes in Copenhagen, the Conference of the Parties adopted a decision in which it provided additional methodological guidance on developing a REDD-plus framework at the national and international levels and reaffirmed the need for the full and effective engagement of indigenous peoples and local communities in and the potential contribution of their knowledge to monitoring and reporting activities relating to the Bali Action Plan (FCCC/CP/2009/11/Add.1, decision 4/CP.15).

35. In 2010, as part of the Cancun Agreements, the Conference of the Parties approved a framework for parties undertaking actions relating to REDD-plus (FCCC/CP/2010/7/Add.1, decision 1/CP.16, paras. 68-79). In that decision, the Conference encouraged developing country parties to contribute to mitigation actions in the forest sector by developing: (a) a national strategy or action plan; (b) a national forest reference emission level and/or forest reference level; (c) a robust

[5] A voluntary international standard for REDD-plus has also been developed through a multi-stakeholder process facilitated by CARE International and the Climate, Community and Biodiversity Alliance. The resulting REDD-plus social and environmental standards are expected to be used as a standard for Government-led programmes at the national, state, provincial and other levels and are designed to go beyond laying out minimum safeguards and to identify and elaborate benefits.

and transparent national forest monitoring system for mitigation activities in the forest sector; and (d) a system for providing information on how the safeguards are being addressed and respected throughout the implementation of the activities.

36. In the same decision, the Conference requested developing country parties, when developing and implementing their national strategies or action plans, to address: (a) the drivers of deforestation and forest degradation; (b) land tenure issues; (c) forest governance issues; (d) gender considerations; and (e) the safeguards identified in paragraph 2 of appendix I to the decision, ensuring the full and effective participation of relevant stakeholders, including indigenous peoples and local communities.

37. Appendix I to decision 1/CP.16 provides guidance and safeguards to be followed when implementing the mitigation actions in the forest sector called for in the decision. Those referred to in paragraph 2 include respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant national and international obligations, circumstances and laws, including the United Nations Declaration on the Rights of Indigenous Peoples, and the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities.

38. The Conference of the Parties, at its seventeenth session, held in Durban, South Africa, in 2011, approved guidance to countries on systems for providing information on how all the safeguards adopted in the Cancun Agreements are addressed and respected. However, that guidance was considered by many observers to be weak with regard to safeguards to protect local communities, indigenous peoples and biodiversity, as it stopped short of approving the requirements to collect data and measure the impact of REDD-plus and requires countries to report only on how developers implement safeguard measures. At the same session, the Conference requested the Subsidiary Body for Scientific and Technological Advice to provide guidance to it at its eighteenth session, held in Doha in 2012, on the timing of the first presentation and the frequency of future presentations of information on how the safeguards are being addressed and respected and on how to ensure transparency, consistency, comprehensiveness and effectiveness when countries present the information (FCCC/CP/2011/9/Add.2, decision 12/CP.17). However, at its meetings in 2012 the Subsidiary Body was unable to agree to such guidance, and no decision was adopted in Doha. Safeguard information systems will continue to be considered by the Subsidiary Body at its meetings in 2013 with the intention of providing the requested guidance to the Conference at its nineteenth session, to be held in Warsaw in November 2013.

VI. United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries

39. The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries supports nationally led REDD-plus readiness efforts and provides (a) direct support to the design and implementation of national programmes under the United Nations Collaborative Programme; and (b) complementary support to national REDD-plus action through common approaches, analyses, methodologies, tools, data and best practices. By

July 2012, total funding for the two streams of support to countries amounted to $117.6 million. The United Nations Collaborative Programme follows a human rights-based approach to programming and policy consistent with the statement of common understanding on a human rights-based approach to development cooperation and considers that the specific mandate and obligation of States, the United Nations and its programmes are those contained in the Cancun Agreements, the United Nations Development Group guidelines on indigenous peoples' issues; the United Nations Declaration on the Rights of Indigenous Peoples; the Convention on Biological Diversity and the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169).

40. The United Nations Collaborative Programme Policy Board is made up of representatives from partner countries, donors to its multi-partner trust fund, civil society, indigenous peoples and FAO, UNDP and UNEP. The Policy Board's role is to approve financial allocations and give strategic direction to ensure the overall success of the Programme. The four indigenous peoples' representatives on the Policy Board are one member of the Permanent Forum and one regional representative from each of the three Programme regions (Africa, Asia-Pacific and Latin America and the Caribbean). The current representatives, who will serve until 2014, were selected by regional indigenous peoples' caucuses in July 2012.

41. The United Nations Collaborative Programme is developing a set of social and environmental principles and criteria intended to: (a) provide guidance to countries in the formulation and review of their REDD-plus national programmes and in the development of their monitoring and reporting framework; and (b) assist countries with the development of their national safeguard systems in line with the requirements under the Framework Convention. The draft, consisting of seven principles and 24 criteria, is consistent with the safeguards adopted in the Cancun Agreements, although it is not intended to comprehensively cover all of the elements therein. It is not a legally binding set of requirements. The set of environmental principles and criteria will be further developed to align with agreements made under the Framework Convention and to ensure coordination with the standards and safeguards of other initiatives, including the Forest Carbon Partnership Facility, the Climate, Community and Biodiversity Alliance and the REDD-plus social and environmental standards frameworks (see below).

42. As part of the efforts under the United Nations Collaborative Programme, in partnership with the United Nations University, Tebtebba Foundation and the secretariat of the Convention on Biological Diversity, UNDP hosted a global indigenous peoples' consultation on REDD in Baguio City, Philippines, in November 2008. The overarching principles and recommendations developed during that consultation, which included a call for engagement, information and reliance on free, prior and informed consent, provided the basis for operational guidance for the engagement of indigenous peoples and other forest-dependent communities. The United Nations Collaborative Programme has also developed guidelines on free, prior and informed consent to provide a normative, policy and operational framework for the Programme's partner countries to seek free, prior and informed consent, as and when appropriate, as determined by the country in consultation with relevant rights holders.

VII. United Nations Collaborative Programme and the Forest Carbon Partnership Facility

43. The guidelines on stakeholder engagement in REDD-plus readiness with a focus on the participation of indigenous peoples and other forest-dependent communities were developed jointly by the United Nations Collaborative Programme and the World Bank-hosted Forest Carbon Partnership Facility to guide countries in their work on stakeholder engagement in REDD-plus activities supported by either or both initiatives. Building on previous guidance, including the recommendations of the global indigenous peoples' consultation on REDD-plus held in Baguio City, Philippines, in November 2008, the joint guidelines are aimed at harmonizing the procedures and guidance material of the United Nations Collaborative Programme and the Forest Carbon Partnership Facility as much as possible in order to make operationalizing REDD-plus actions in countries where both initiatives are active a more efficient and unified process. This is in line with other work to harmonize approaches, such as the adoption of a joint readiness preparation proposal template, which also integrates elements of the joint guidelines. The joint guidelines will be reviewed periodically to update their relevance and applicability.

Forest Carbon Partnership Facility

44. The Forest Carbon Partnership Facility has adopted a common approach to environmental and social safeguards for multiple delivery partners designed to provide the World Bank and the multiple delivery partners with a common platform for risk management and quality assurance in the REDD-plus readiness preparation process, which is substantively equivalent to the safeguard policies of the World Bank. If the delivery partner's own environmental and social safeguard policies are more stringent than those of the World Bank, the delivery partner shall apply its policies and procedures to activities undertaken under the Facility's Readiness Fund.

45. To ensure that environmental and social concerns are integrated into the national REDD-plus strategy process and that the readiness activities under the Facility comply with applicable safeguards, the Facility uses a strategic environmental and social assessment, which is expected to help countries to ensure compliance with the applicable safeguards by integrating key environmental and social considerations relevant to REDD-plus, including all those covered by the applicable safeguards, at the earliest stage of decision-making and formulate their REDD-plus strategy in a way that reflects inputs from key stakeholder groups and addresses the main environmental and social issues identified. The assessment includes a stand-alone environmental and social management framework that provides a framework for managing and mitigating the potential environmental and social impacts and risks related to policy changes, investments and carbon finance transactions in the context of the future implementation of REDD-plus.

46. Attached to the common approach are the guidelines on stakeholder engagement in REDD-plus readiness with a focus on the participation of indigenous peoples and other forest-dependent communities. These guidelines provide that the activities under the Facility affecting indigenous peoples are governed by the common approach, including the operational policies of the World Bank, in particular operational policy 4.10 on indigenous peoples, and by the Facility's Charter. Operational policy 4.10 specifies that the World Bank provides financing

only where free, prior and informed consultation results in broad community support to the project by the affected indigenous peoples.

47. The World Bank's view is that the operational policy is consistent with the safeguards provisions of the Cancun Agreements, in particular the emphasis on respect for the knowledge and rights of indigenous peoples and on their full and effective participation. The World Bank deems that the policy enables it to operate in a manner that can be considered substantially equivalent to the principle of free, prior and informed consent. Furthermore, although the policy does not expressly mandate free, prior and informed consent, if the country has ratified ILO Convention No. 169 or adopted national legislation on free, prior and informed consent, or if the World Bank is working on a project with a development partner that expressly applies the principle of free, prior and informed consent, the World Bank will in turn support adherence to that principle.

48. The guidelines also specify principles and guidance for effective stakeholder engagement and practical steps for carrying out effective consultations. In order to obtain the Facility's support for the move from phase 1 (readiness) to phase 2 (early action), a country will need to prepare a readiness package, for which the Facility is developing an assessment framework. In June 2012 the Facility's Participants Committee adopted a resolution in which it defined the purpose, scope and assessment and endorsement process of the readiness package centred on: (a) a multi-stakeholder self-assessment by the country; and (b) an assessment by the Participants Committee. The guidelines provide for the inclusion and active participation of indigenous peoples' representatives in the national self-assessment. The Participants Committee includes one observer representing forest-dependent indigenous peoples and forest dwellers.

49. An interesting aspect in the process is that indigenous peoples, through a global committee, have made the World Bank support a series of meetings with indigenous peoples to bring about dialogue with a view to the revision of its policies on environmental and social safeguards related to indigenous peoples. The meetings began in Guna Yala, Panama, and the last dialogue session was held in Doha. The dialogues involved indigenous representatives from Latin America, Asia and Africa, as well as participants from the Arctic and North America.[6] Indigenous peoples have made clear to the World Bank that it should take into account the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, especially on free, informed and prior consent and the full and effective participation of indigenous peoples.

Forest Investment Programme Dedicated Grant Mechanism for Indigenous Peoples and Local Communities

50. The main purpose of the Forest Investment Programme is to support developing countries' REDD efforts by providing up front bridge financing for readiness reforms and public and private investments identified through national REDD readiness strategy-building efforts, while taking into account opportunities to help them to adapt to the impacts of climate change on forests and to contribute to multiple benefits, such as biodiversity conservation, protection of the rights of indigenous peoples and local communities, poverty reduction and the enhancement

[6] Indian Law Resource Center, www.indianlaw.org.

of rural livelihoods. There are eight Forest Investment Programme pilot countries: Brazil, Burkina Faso, Democratic Republic of the Congo, Ghana, Indonesia, Lao People's Democratic Republic, Mexico and Peru.

51. The Forest Investment Programme provides for the establishment of a Dedicated Grant Mechanism for Indigenous Peoples and Local Communities to provide grants to indigenous peoples and local communities in country or regional pilot activities in support of their participation in the development of investment strategies, programmes and projects under the Forest Investment Programme. The work of the Grant Mechanism aims to achieve specific gains in tenurial rights, forest governance, livelihoods of forest-dependent indigenous peoples and local communities in a sustainable manner that enhances local empowerment. The governance structure for the Grant Mechanism comprises: (a) a Global Coordination Committee; and (b) a national steering committee for each pilot country. The first meeting of the Global Coordination Committee was held in November 2012.

International Climate and Forest Initiative

52. Like other bilateral REDD-plus initiatives, the International Climate and Forest Initiative of the Government of Norway supports readiness efforts, methodology development and pilot projects in a number of countries. While most of the Initiative's financial support is channelled through multilateral entities, between 2009 and 2012 approximately $110 million was provided through the Initiative's civil society support scheme to 40 civil society organizations and research institutions with projects at the international, national and subnational levels. The support scheme has focused on safeguards, notably those relating to indigenous peoples and other forest-dependent communities, in connection with the development of national REDD-plus strategies. The objectives of the projects funded include contributing to building the capacity of local communities and indigenous peoples to engage in the REDD-plus debate and promoting REDD-plus co-benefits and equity, in particular the safeguards associated with the rights of indigenous peoples and local communities, gender and women's rights, biodiversity conservation, fighting corruption and fiduciary control.

VIII. Voluntary carbon standards

53. Finally, as noted previously, individual REDD-plus projects are likely to be certified under voluntary carbon standards. While there are a number of applicable standards, the Climate, Community and Biodiversity Standards are being used increasingly for projects initiated by or involving indigenous peoples and other forest-dependent communities.

Climate, Community and Biodiversity Standards

54. The standards were developed by the Climate, Community and Biodiversity Alliance, which is responsible for the REDD-plus social and environmental standards. The standards identify land-based projects that are designed to deliver robust and credible greenhouse gas reductions while delivering net positive benefits to local communities and biodiversity. They can be applied to any land-based carbon project, including both projects that reduce greenhouse gas emissions through avoided deforestation and forest degradation (REDD) and those that remove carbon

dioxide by sequestering carbon (e.g., reforestation, afforestation, revegetation, forest restoration, agroforestry and sustainable agriculture). The standards are important for all phases of project planning and management, including design, implementation and monitoring.

55. The Climate, Community and Biodiversity Standards require that project proponents:

- Identify indigenous peoples, mobile peoples and other local communities who live within or adjacent to the project area, as well as any groups that regularly visit the area and derive income, livelihood or cultural values from the area
- Demonstrate with documented consultations and agreements that the project will not encroach uninvited on private property, community property or Government property and that the proponents have obtained the free, prior and informed consent of those whose rights will be affected by the project in accordance with the United Nations Declaration on the Rights of Indigenous Peoples
- Demonstrate that the project does not require the involuntary relocation of people or of the activities important for the livelihoods and culture of the communities, in accordance with statutory laws and customary rights
- Use appropriate methodologies to estimate the impact on communities, including all constituent socioeconomic or cultural groups such as indigenous peoples, of planned project activities; a credible estimate of the impact must include changes in community well-being due to project activities and an evaluation of the impact by the affected groups

56. All projects for approval under the Climate, Community and Biodiversity Standards must be validated to determine that the project design conforms with the Standards and must subsequently be verified to determine that the project has been successfully implemented, generating net positive climate, social and biodiversity benefits in accordance with its design. Approximately 100 projects worldwide have been validated or are undergoing validation under the Standards.

IX. Activities of indigenous peoples' organizations

57. Since the meeting of the Conference of the Parties in Bali, a great effort has been made to promote the rights of indigenous peoples at the Conference. Fairly significant success was achieved at the sixteenth session, held in Cancun, Mexico, at which respect for the traditional knowledge and rights of indigenous peoples and local communities and the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, were mentioned in decisions adopted. In this regard, it is important that lobbying and advocacy by indigenous peoples continue until a final agreement on reducing emissions from deforestation and forest degradation in developing countries is reached, so as to ensure that the rights of indigenous peoples are respected.

58. With regard to the review of the experience and position of the organizations and communities of indigenous peoples around the world on the subject of REDD-plus, there are two different scenarios:

(a) Organizations radically oppose REDD-plus owing mainly to insecurity as to the rights of indigenous peoples, the weakness of existing national legal frameworks to protect those rights and the uncertainties of the Framework Convention negotiations on REDD-plus. Those organizations are strongly opposed to the carbon market;

(b) Organizations consider the REDD-plus model as opportunities for indigenous peoples. Although they share reservations about the risks that this model offers if indigenous peoples' rights are not fully recognized and strong safeguards are not in place, some organizations are open to the voluntary carbon market.[7] Some indigenous peoples' organizations, such as the Coordinating Body of Indigenous Organizations in the Amazon Basin (COICA) and some of its associates, are defining and proposing a model of indigenous peoples' REDD-plus. Several indigenous peoples' organizations have developed capacity over the issue through training on different aspects, including measurement, reporting and verification, community mapping and advocacy.

X. Conclusions and recommendations

59. REDD-plus offers opportunities for indigenous peoples to consolidate their rights, including tenure of their territories and the implementation of community-led livelihood strategies. Governments can provide their support by recognizing indigenous peoples' rights and establishing safeguards.

60. The negotiations under the Framework Convention for a future global REDD-plus mechanism, the readiness activities currently supported by agencies and donors and the majority of individual REDD-plus projects apply standards and safeguards that seek to protect indigenous peoples' rights and support sustainable livelihoods.

61. REDD-plus is a multifaceted issue with objectives that include climate change mitigation, conservation and the sustainable use of forest biodiversity and the protection of the rights and the advancement of sustainable livelihoods of indigenous peoples and other forest dwellers. The biodiversity aspects of REDD-plus, including the application of relevant safeguards for biodiversity, are being considered under the Convention on Biological Diversity. The decisions under that Convention regarding REDD-plus are transmitted to the secretariat of the Framework Convention in order to be taken into account in the decision-making process under that Convention. At the same time, those decisions serve as guidelines to countries that are parties to the Convention on Biological Diversity to ensure that their climate change mitigation actions support their implementation of the objectives of the Convention and are incorporated into their national biodiversity strategy.

[7] Under a global partnership led by Tebtebba Foundation and with funding provided by the Climate and Land Use Alliance and the Norwegian Agency for Development Cooperation, 10 indigenous peoples' organizations are working at the grass-roots level in education and early warning on topics related to REDD-plus, building capacity in such a way that some are called to be members of the official delegations of Governments to the sessions of the Conference of the Parties to the Framework Convention. Some of those organizations include the Nepal Federation of Indigenous Nationalities (www.nefin.org.np), Centro para la Autonomía y Desarrollo de los Pueblos Indígenas (www.cadpi.org), the Mainyoito Pastoralists Integrated Development Organization (www.mpido.org) and Chirapaq (www.chirapaq.org.pe).

62. Safeguards are essentially a mechanism to avoid harm. In the case of REDD-plus initiatives, the importance of effective REDD-plus social and environmental safeguards resides in more than achieving the objective of "doing no harm"; rather, the importance of current policy efforts to reduce emissions from deforestation and forest degradation lies in the opportunity to bring about positive and measurable co-benefits for indigenous peoples.

Recommendations

63. The safeguard systems developed by climate funds and donors supporting REDD-plus readiness activities should adopt a rights-based approach that takes into account relevant international conventions and agreements, such as the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169.

64. There is a need to increase indigenous peoples' knowledge to consolidate and further advance their interests within REDD-plus.

65. Due note should be taken of the efforts of the secretariats of the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change to include indigenous peoples, and there should be closer cooperation between those bodies and the secretariat of the United Nations Convention to Combat Desertification. The secretariat of the Framework Convention should be urged to strengthen the participation of indigenous peoples, including through seats in the Permanent Forum and participation in the Green Climate Fund. Full and effective participation includes the recognition of indigenous peoples as rights holders and as a separate constituency and of their right to obtain access to culturally appropriate information, to be consulted and to attend meetings of decision-making bodies, as well as to speak and engage in such meetings.

66. The Green Climate Fund and its operations and activities should be informed by a rights-based approach that prevents any negative consequence of climate change policies and programmes on the rights of indigenous peoples. In this regard, it is notable that the governing instrument of the Fund has a section on safeguards (sect. X) and on accountability (sect. XI).

67. The secretariat of the Framework Convention, the parties thereto and the donors supporting its implementation are urged to strengthen indigenous peoples' participation at the nineteenth session of the Conference of the Parties in order to ensure that the potential benefits of REDD-plus accrue to indigenous peoples. In addition, indigenous peoples' rights should be respected and enhanced through the further development and effective application of the relevant safeguard systems.

68. The Conference of the Parties is requested to establish safeguard information systems that establish baselines and enable the monitoring of the environmental and social impact of national REDD-plus activities, in lieu of requiring self-reporting by developers.

69. The approval procedures of the REDD-plus readiness programmes and climate funds require compliance with their respective safeguard systems. As noted above, these safeguards are designed to be consistent with the Framework Convention safeguards agreed in Cancun and with each other.

70. Indigenous peoples' organizations in Forest Investment Programme pilot countries can use the Dedicated Grant Mechanism to build capacity and ensure that emerging national REDD-plus programmes take indigenous rights and aspirations fully into account. The mechanism should be operationalized quickly in more countries in order to support REDD-plus programmes involving indigenous peoples. Financial support should also be provided to make them effective. Indigenous representatives should also report back on the decisions involving the programmes.

71. REDD-plus bodies and relevant donor agencies need to ensure the continued effective participation of indigenous peoples in REDD-plus processes by providing guidance on the application of safeguard systems.

72. Relevant international agencies, donors and research or other specialized organizations should consider how to make REDD-plus projects involving indigenous peoples and related information available to indigenous peoples and the general public through a dedicated multilingual mechanism or portal.

73. In addition to supporting the assessment at the global level of REDD-plus activities involving indigenous peoples and the functioning of the safeguard systems, the national REDD-plus framework should fully incorporate the international guidance given under the Framework Convention and by climate funds and other bodies into the implementation of the readiness and early-action phases of their REDD-plus strategies, in full conformity with the spirit and the letter of the applicable safeguards.

74. A number of multilateral and bilateral climate initiatives provide resources for capacity-building among REDD-plus stakeholders, including on safeguards, research and policy development, to ensure that co-benefits are captured and forest-dependent communities are involved in national REDD-plus frameworks. It is recommended that agencies and donors consider the importance of such capacity-building activities and support the expansion of such initiatives.

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Study on the right to participation of indigenous youth in the Nordic countries in decision-making processes

Note by the Secretariat

At its eleventh session the Permanent Forum appointed Eva Biaudet, a member of the Forum, to undertake a study on the right to participation of indigenous youth in the Nordic countries in decision-making processes, to be submitted to the Forum at its twelfth session. The requested study is hereby transmitted to the Forum.

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Study on the right to participation of indigenous youth in the Nordic countries in decision-making processes[1]

I. Introduction

1. The present study covers Sami youth in Finland, Sweden and Norway, and Inuit (Greenlandic) youth in Greenland. Given the significant number of Greenlandic residents in Denmark,[2] the study also takes into account Greenlandic youth residing in Denmark and how their views on matters of relevance to them are heard.

2. The study provides a review of the three major Sami political institutions (the Sami Parliaments of Finland, Sweden and Norway) as well as the Parliament of Greenland (the Inatsisartut), and examines to what extent those institutions allow for the participation of youth in their decision-making processes. The present study also examines to what extent young indigenous activists feel that they are successful in influencing and setting the political agenda, and what indigenous youth expect from their Parliaments.

3. While the study reviews the Parliaments as models of good practice with regard to youth participation, it also highlights some of the challenges faced by young persons who wish to participate in decision-making processes. Pointing to prospects for future work, the author submits conclusions and recommendations to the four Parliaments on how to promote the inclusion of young people in this important field.

4. The study draws on answers submitted by the Sami Parliaments and the Inatsisartut, communications with members of the Sami Parliaments' youth councils and on-site interviews with young Greenlanders in Nuuk, the capital of Greenland, and Copenhagen. Questionnaires developed by indigenous youth were posted in Denmark, Finland, Greenland, Norway and Sweden. By November 2012, 262 young Sami and Greenlanders had answered the questionnaire and their answers, comments and suggestions form an important part of this study.[3]

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* E/C.19/2013/1.

[1] The author would like to acknowledge the contribution of Tove Holmström to this report and would also like to extend her gratitude to Sagka Marie Danielsen, Àike Niilas Peder Selfors, Josefina Skerk and Inka Nuorgam for their assistance. A warm thank you also goes out to the members of the youth councils/youth committee of the Sami Paliaments and to those who responded to the questionnaire for taking the time to share their concerns, experiences and priorities.

[2] A fact-sheet prepared by the North Atlantic Group in the Danish Parliament estimates the number of Greenlanders living in Denmark in 2007 at 18,563.

[3] Finland: 63 respondents (with a ratio of 71.4 per cent female respondents to 27.0 per cent male); Sweden: 23 respondents (69.6 per cent female respondents, 30.4 per cent male respondents); Norway: 55 respondents (61.8 per cent female, 38.2 per cent male); Greenland: 27 respondents (65.4 per cent female, 34.6 per cent male); and Denmark: 94 respondents (68.1 per cent female, 31.9 per cent male).

II. Relevant normative framework for securing the right of youth to participation in decision-making

5. The right to participation is a human right, which is fundamental to the exercise of many other rights, and which is based on the concept that an individual should be involved in decision-making processes that affect his or her interests. Everyone should be able to participate in society, to defend his or her interests and to help create a society that also fulfils his or her interests and desires.[4]

6. The right of young persons to be heard and taken seriously constitutes one of the fundamental principles of the Convention on the Rights of the Child.[5] The right to be heard extends to all actions and decisions that affect the likes of young persons — in school, in local communities, in political institutions and at the national political level. The Committee on the Rights of the Child has promoted a broad interpretation of matters affecting the young person, stating that "a wide interpretation of matters affecting the child and children helps to include children in the social processes of their community and society".[6]

7. Under the Convention, the concept of participation[7] emphasizes that the inclusion of youth should not only be an isolated act, but the starting point for a continuing exchange between youth and adults on the development of policies, programmes and measures in all contexts of relevance to young peoples' lives.[6] Article 12 of the Convention requires consistent and ongoing application. Fulfilling the right to participation involves the development of a direct relationship with youth, as opposed to a relationship that is mediated through non-governmental organizations or human rights institutions.[8]

8. The Committee on the Rights of the Child has noted that in most societies around the world, the implementation of a young person's right to express her or his view on a wide range of issues that affect her or him, and to have those views taken into account, continues to be impeded by long-standing practices and attitudes, as well as political and economic barriers.[6]

9. Indeed, the participatory thrust of the Convention on the Rights of the Child often demands considerable change in cultural attitudes towards young people. Appearing to listen to children and youth is relatively unchallenging, but giving due weight to their views requires real change.[8] Article 12 of the Convention requires

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[4] See Icelandic Human Rights Centre/The Right to Participate in Society (http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/humanrightsconceptsideasandfora/substantivehumanrights/therighttoparticipateinsociety/).

[5] Article 12 of the Convention on the Rights of the Child provides that children have the right to participate in decision-making in matters that affect them. The Committee on the Rights of the Child identifies article 12 as one of the four general principles of the Convention which not only establishes a right in itself, but should also be considered in the interpretation and implementation of all other rights.

[6] Committee on the Rights of the Child, general comment No. 12 (2009) concerning the right of the child to be heard (CRC/C/GC/12, para. 27).

[7] Although the term participation does not appear in the text of article 12 of the Convention on the Rights of the Child, a widespread practice broadly conceptualized as "participation" has emerged in recent years in translating the right embodied in article 12 into practice.

[8] Committee on the Rights of the Child, general comment No. 5 (2003) concerning general measures of implementation for the Convention on the Rights of the Child (articles 4, 42 and 44 (6)) (CRC/GC/2003/5, para.12).

that governments, political institutions and civil society organizations listen to youth and take their views seriously, recognizing the value of their experiences and concerns.

10. The United Nations Declaration on the Rights of Indigenous Peoples contains no specific provision on youth and their right to participation, but recognizes, in articles 21 (1) and 22 (2), the vulnerability of indigenous youth in a number of areas. The Declaration also contains many references to participation, including free, prior and informed consent and self-determination, which applies to indigenous youth even if they are not specifically mentioned in those articles. The World Programme of Action for Youth, adopted by the General Assembly in 1995, also highlights the importance of youth participation and establishes full and effective participation of youth in the life of society and in decision-making as one of its priority areas.

III. Survey of the four mechanisms

A. Sami Parliament of Finland: youth council

11. In 2011, the Sami Parliament of Finland established its youth council on an equal footing with the Parliament's other committees. The members of the youth council are appointed on a biannual basis by the Parliament's Assembly. The youth council consists of five members between 18 to 25 years of age. The Assembly also elects five permanent experts (15 to 17 years old at the time of their election) to serve as advisers to the youth council for a term of two years. The Finnish Sami Parliament employs a full time youth secretary who works on matters of concern to youth and serves as the secretary of the youth council.

12. The youth council prepares the Sami Parliament's proposals, initiatives and statements on Sami youth, promotes the rights of Sami youth to their own languages and culture, as well as national and international cooperation among Sami youth, and disseminates information about Sami youth and their rights. The youth council may nominate one of its members to speak at the Sami Parliament's Assembly as well as at the Parliament's Board meetings, allowing for the participation of youth at the highest level of decision-making within the Sami Parliament. Since its establishment, the youth council has been very active, providing statements and opinions on a wide range of topics. On a number of occasions, young Sami have been appointed to represent the Sami Parliament of Finland at international meetings.[9]

13. As identified by the Sami Parliament of Finland, matters of priority to Sami youth include: improving the conditions for traditional Sami livelihoods, the protection of traditional knowledge; and strengthening the rights of Sami who live outside the Sami homeland area.[10] Young Sami have also been very concerned about

[9] The youth council has represented the Sami Parliament of Finland at the Barents Indigenous Peoples Congress in Kirkenes, Norway, in 2012, and at sessions of the United Nations Permanent Forum on Indigenous Issues.

[10] According to the Sami Parliament of Finland, 73.5 per cent of Sami children and youth under the age of 18 were living outside the Sami homeland region in 2011. The high number of Sami youth who live outside the homeland region brings new challenges for the provision of education, services and communications in the Sami languages.

the increase in negative attitudes towards Sami people and anti-Sami sentiments in Finland. In general, the youth council has attracted the participation of more girls than boys.

14. The youth council reports that it is consulted in matters of direct relevance to youth, in particular, on matters concerning language and culture. However, members of the youth council indicated that it would be desirable that the Parliament seek input from young people on all matters (not only those considered to be of direct relevance to youth), because in the future Sami youth will be affected by the decisions that are taken by the Sami Parliament now.[11]

15. Most members of the youth council feel that the system in place is good, that their voices are heard and that they can have influence on matters that are important to them. A widespread view is that the members of the Parliament are genuinely interested in what the members of the youth council have to say. Having the right to participate and make statements at the Assembly and the meetings of the Sami Parliament's Board is a source of great pride, as is the fact that members of the youth council represent the Sami Parliament at important international meetings. On the other hand, members of the council are concerned that the Sami general public does not know about the council and its work. To remedy this, it is suggested that more information about the youth council be disseminated in schools both in and outside the Sami homeland region. The members of the council have also requested more funding, as financial constraints have meant that many proposed projects and initiatives could not be realized. The conditions for Sami who live outside the Sami homeland area is a matter that the members of the youth council wish the Sami Parliament would prioritize and focus on.

16. Responses by members of the youth council confirm the observation made by the Sami Parliament: as a general rule, boys participate in youth politics to a lesser extent than girls.[12] There are various reasons given for the lower level of engagement of boys, including traditional livelihood practices (such as reindeer herding), which occupy young Sami men to a greater degree than young Sami women. The mandatory military service for young men, which sometimes lasts for an entire year, also means that boys have less time to engage in politics at a young age.

B. The Sami Parliament of Sweden: youth council

17. Similar to the practice of the Sami Parliament of Finland, the Swedish Sami Parliament has a youth council. The council consists of five members (14 to 30 years of age) appointed by the Sami Parliament for a two-year term. The council serves as an advisory body to the Parliament's board and committees. The mandate of the youth council is to strengthen the influence of Sami youth within the Sami

[11] Extract from responses submitted by members of the youth council of the Sami Parliament of Finland. The desire for a broad interpretation of matters relevant to youth is also echoed in the survey responses collected in all five countries.

[12] Following the elections in 2011, the Sami Parliament of Finland is comprised of 14 men and 7 women. The higher percentage of women in the youth council is not reflected in the current composition of the Sami Parliament. Those figures indicate that while it may seemingly be easier for young women to become politically active, this freedom and influence is reduced when women marry and have children.

Parliament, to encourage Sami youth to engage in politics and to register to vote. The youth council also arranges annual Sami youth conferences.

18. The Sami Parliament of Sweden reports that the youth council is not directly heard by the decision-making bodies. With its 31 members and 8 elected decision-making bodies (accounting altogether for about 45 members), it would be impossible for the five members of the youth council to be active in every one of these bodies. It is up to the youth council to decide how to act in the political environment of the Sami Parliament of Sweden.

19. Unlike the Sami Parliament of Finland, the Swedish Sami Parliament does not employ a youth secretary and there is no one in the Parliament's administration who deals specifically with youth issues. The Parliament reports[13] that political activity among young men and women is seemingly equal, at least in terms of voting figures, which show that the proportion of young men and women among the voters is equal.[14]

20. Members of the youth council of the Sami Parliament report that they are satisfied with the youth council system and are pleased that the political parties in the Sami Parliament are willing to include young people on their polling lists. It is reported, however, that the youth council is underdeveloped and that it has been affected by political unwillingness to provide it with adequate funding. Owing to financial constraints, the youth council has not been able to fulfil its plan of action (approved by the Sami Parliament in 2007). There is further concern over the fact that the council rarely gets called upon to participate in important sessions and meetings of the Parliament and that it is not often asked to provide input concerning political documents or motions that are being considered by the Parliament. On a more positive note, members of the youth council reported that they are pleased that they are invited to attend meetings between the Sami Parliament and State authorities and ministries.

21. The general impression obtained from the members of the youth council is that Sami youth are interested in politics, but that the Sami Parliament is difficult to approach. It is suggested that more accessible information about the Parliament should be disseminated among Sami youth, and that the Parliament make contact with a greater number of young people by arranging seminars on the works of the Sami Parliament, political processes and current issues. Members of the youth council would like to have the opportunity to arrange courses for Sami youth on how to become more politically involved.

22. Considering the participation of young men and women, members of the youth council reported that their impression that it is more difficult to get young men to become active in politics, but that young men accept offers for high-level positions more often than young women. Racism towards the Sami, Sami self-determination, land and water rights and extractive industries operating in Sápmi[15] are listed as

[13] The Parliament reports that in the 2009 elections for the Sami Parliament of Sweden approximately 10 per cent of the voters were under 25 years of age.

[14] Following the elections in 2009, 15 of the 31 members of the Sami Parliament of Sweden were women. In 2008, the ratio was 10 women to 21 men.

[15] Sápmi refers to the territory which the Sami traditionally inhabit. The Sápmi region spans the northern parts of Norway, Sweden and Finland and the Kola peninsula in the Russian Federation.

concerns that occupy Sami youth in Sweden, and as matters of concern that link Sami youth in Sweden, Finland and Norway together.

C. The Sami Parliament of Norway: youth committee

23. In 2003, the Sami Parliament of Norway established a permanent young people's committee (the youth committee) with a mandate to strengthen the influence of young Sami on the policies adopted by the Sami Parliament. The members of the committee are appointed every two years by the Executive Council of the Parliament. The appointments are made based on nominations by the political parties in the Sami Parliament and by Sami youth organizations. The nomination and election of youth are based on the goal of achieving the broadest possible geographical and age-related balance, as well as gender parity. Through the youth committee, the Sami Parliament of Norway maintains contact with Sami youth organizations across the country.

24. The Sami Parliament of Norway reports that there are no guidelines as such for the involvement of the youth committee in all decision-making processes of the Parliament, but that the committee is consulted with relative frequency and asked for input on issues that are being considered by the Parliament. Input from Sami youth has also been considered in the international work of the Sami Parliament of Norway.[16] The youth committee is free to focus on issues that the members find relevant, and it can request meetings with the committees of the Sami Parliament and political groups as desired or required.

25. The Parliament reports that Sami youth may also affect the policies and work of the Sami Parliament through voting in the elections for the Sami Parliament. The youth committee is working actively to encourage more young people to register to vote and to boost the voting figures for young people in the elections for the Sami Parliament. According to the Sami Parliament, young Sami men are less politically involved than young Sami women. A major challenge is to get young men to stand for election to the Sami Parliament,[17] and the Parliament has a Plan of Action for Equal Opportunity 2009-2013 to encourage more young Sami men to take part in politics. Asked what issues they feel they are able to raise and have influence on, the members of the youth committee responded that while they have the scope to exert influence on most matters, they are mostly consulted on matters having to do with language and education. More recently, racism towards the Sami peoples and discrimination against Sami children are also issues that the committee members have been asked to comment on.

26. Pointing to the low voting figures for Sami youth, the youth committee highlighted the fact that many young Sami move away from the Sami heartland at an early age, and that the Sami Parliament's election campaigns do not reach Sami youth living in cities and towns outside the homeland region. The youth committee

[16] For instance, in connection with the preparations for the Global Preparatory Indigenous Peoples' Conference on the World Conference on Indigenous Peoples, scheduled to take place in Alta, Norway, in June 2013, the youth committee and other Sami youth organizations participated in a pan-Sami meeting and made interventions about the conditions of Sami youth.

[17] The gender ratio of the elected assembly of the Sami Parliament of Norway is 19 women to 20 men. After the last election in 2009, the average age of females in the Sami Parliament was 39 years compared to the average 52 years for males.

has suggested that the Parliament mobilize more young voters by lowering the voting age to 16 years (the current legal voting age being 18).[18]

27. A concern voiced by the members of the youth committee is the recent increase in anti-Sami sentiments, which have been particularly notable in the media. Many young Sami who are active and who raise Sami concerns in public often have to serve as targets of abuse while defending the interests and culture of the Sami peoples. Because of this, many young Sami avoid becoming active in politics and do not want to engage in public debates. Making members of the general public understand and be aware of the challenges that many Sami face is perceived as a difficult task.

28. Asked whether there are any considerable differences in the participation of young Sami men and women, the youth committee reported that Sami boys and girls share the same concerns and priorities, but that few young Sami men run for election in the Sami Parliament. Pointing to the practice of the Sami Parliament of Finland, the youth committee at the Norwegian Sami Parliament has requested the right to speak at the Parliament's plenary sessions, a right that the Parliament's current order of business and rules of procedure do not allow for.

D. The Inatsisartut: Youth Parliament

29. At the Inatsisartut in Greenland there are no formalized structures to incorporate youth into the decision-making process. As far as participating in decision-making at the Inatsisartut goes, young people have the the option of taking part in the activities of the youth organizations of the political parties of Greenland. Spokesmen from the parties occasionally make public statements on issues concerning youth. In addition, "youth parliaments" give young Greenlanders a chance to learn about democratic processes and to witness the workings of the Inatsisartut. As of 2009, four youth parliaments have been arranged on a biannual basis on a wide range of topics.[19] The next youth parliament, scheduled to take place in 2013, will have a thematic focus on language.

30. The youth parliament offers 35 participants (elected on the basis of their personal applications and letters of interest) the chance to meet and discuss a designated theme. The participants are drawn from grades 9 and 10 (14 to 15 years of age) from schools all over Greenland. The purpose of the event is to teach the participants about democracy in practice rather than to make them experts on the given topic. Based on the discussions and statements made during the event, the participants draft and approve a final document that is handed over to the president of the Inatsisartut and to the Premier of the Naalakkersuisut (Government of Greenland). There is a general impression that youth in Greenland do not take

[18] With regard to registering to vote in elections for the Sami Parliament, the youth committee is concerned that the age threshold for registering in the electoral register and voting in the Sami Parliament's elections is too high. For some, registering in the electoral register translates into an active choice to identify oneself as Sami.

[19] The youth parliaments have had a thematic focus on: the constitution (2003); democracy (2005); law and justice (2007); and globalization (2009).

much interest in politics.[20] Girls tend to express a greater interest in participating in politics than boys.[21]

31. In Denmark, young Greenlandic students are represented by the organization Avalak, which has roughly 500 members all over Denmark. Every year the organization appoints a negotiator who travels to Greenland to meet with members of the Inatsisartut and the political parties to discuss matters that relate to the situation of Greenlandic students in Denmark. Prior to departing for Greenland, the negotiator consults with members of Avalak about their concerns, priorities and suggestions on how their living situation could be improved.[22] The Parliament of Greenland does not maintain any ongoing communication with Avalak but representatives of the organization report that they can easily communicate with members of the Parliament and that they maintain a good relationship with the national educational committee. Avalak has been hailed as a very active organization, especially in terms of communicating the concerns of young Greenlandic students in Denmark to the political actors in Greenland.

32. The youth parliament is seen as effective in providing young Greenlanders with insight into how the democratic system works. It is regarded by many as a good way to get young Greenlanders more interested and engaged in politics. For some participants, involvement with the youth parliament becomes the starting point of their political careers. On the other hand, as there is no follow-up to the youth parliaments and it is unclear to what extent (if any) members of the Inatsisartut take the final documents produced by the youth parliaments into account in their decision-making process. While the youth parliament may help young people to learn about democratic processes and to become more active in politics, it does not amount to the level of participation set out in article 12 of the Convention on the Rights of the Child.[23] In their responses, many young Greenlanders have expressed a wish for a more permanent, consultative structure that would allow for regular input from youth in decision-making in matters that impact children and youth in Greenland.

IV. Matters of concern and priority as identified by Sami and Greenlandic youth

33. On a general note, the concerns raised by Sami respondents in Finland, Sweden and Norway are linked, to some extent, to the policies and regulations that

[20] The quota of applicants for the 2013 Youth Parliament is, one month after the application date was announced, 65 per cent female and 35 per cent male. The Inatsisartut reports that these figures seem to validate the general impression that girls tend to participate in politics to a greater degree than boys.

[21] At the time of writing, only one third of the members of the Inatsisartut are women. This figure does not correspond to the impression that women are more active in politics than men, although young women, as indicated by the Inatsisartut, tend to take more of an interest in politics than young men.

[22] Matters of priority for members of Avalak include economic support for Greenlanders studying in Denmark, the situation of Greenlandic students with families living in Denmark and the living situation in Copenhagen.

[23] In fact, the Committee on the Rights of the Child, in its general comment No. 5 (2003) confirms that one-off regular events like children's parliaments "can be stimulating and raise general awareness" but that "article 12 requires consistent and ongoing arrangements" (CRC/GC/2003/5, para. 12).

are imposed on the Sami by the respondents' respective countries. For instance, Sami youth in both Finland and Sweden have expressed dissatisfaction over the fact that their Governments have not ratified International Labour Organization (ILO) Convention No. 169 on indigenous and tribal peoples. This is not brought up for discussion by the respondents on the Norwegian side of Sápmi, as Norway already is a signatory to the convention.

34. Language, especially the need to focus on the Sami languages spoken by smaller Sami groups, which are severely threatened, is raised by Sami respondents in all three countries. Sami youth in Finland, Sweden and Norway also express their desire for more teaching materials, novels and films in all Sami languages. Racism towards the Sami is on the increase and anti-Sami sentiments have been raised by Sami youth in all three countries. Sami respondents across all three borders share frustration over the insufficient teaching of Sami history and culture in national schools, and emphasize that the stereotypical representations of the Sami peoples in schools contribute to the negative attitudes and the hostility of the general population towards the Sami. High suicide rates are reported both by Sami youth in Sweden and by Greenlandic youth in Greenland and Denmark. Greenlandic and Sami youth also share a wish for more meeting places, and the hope that more events and conferences for youth can be arranged, especially in smaller towns and communities.

A. Finland

35. Matters of priority to Sami youth in Finland include: the situation of Sami who live outside the Sami homeland region; the lack of teaching materials and books in Sami; language revitalization (taking into account all three Sami languages spoken in Finland); the protection of traditional livelihoods; and external and internal discrimination. Many respondents wonder why Finland has not ratified ILO Convention No. 169. Respondents expressed their wish for increased cooperation with Sami youth in Sweden, Norway and the Russian Federation and highlighted the need for meeting venues and discussion forums where Sami youth can come together to discuss common concerns and share ideas. One respondent pointed out that most young Sami are interested in Sami issues and Sami politics, but cannot find anyone to talk to and discuss such matters with, and that many young people feel isolated.

36. Concerns have been raised that the school curriculum, and many would like a curriculum that would help Sami culture and languages survive more effectively. It is suggested that Sami autonomy should be extended to cover education policy. In terms of education, many respondents found it disheartening that very little is taught about the Sami in Finnish schools,[24] and that neither Sami youth nor Finnish youth learn about Sami history.

[24] This concern has also been highlighted by the Special Rapporteur of the Human Rights Committee on the rights of indigenous peoples, who, in his 2011 report on the situation of the Sami people in the Sápmi region of Norway, Sweden and Finland, reported that the current primary school curriculum fails to adequately reflect the diversity of the Nordic countries' populations (A/HRC/18/35/Add.2, para. 71). In this regard, the Special Rapporteur recommended that "the States and the Sami parliaments should cooperate to develop and implement measures to increase awareness about the Sami people within the media and the public at large. Such awareness should be promoted, inter alia, through primary, secondary and university school curricula." (ibid., para. 89).

37. Some perceive the Sami Parliament as "too closed", and reported that the circles of Sami politics are very small. One respondent stated: "I am not so brave in my opinions, and sometimes I feel that I give the wrong comments and have the wrong opinions and that this irritates the older decision makers and people close to me … I often feel pressured to have certain kinds of opinions. Sometimes I fear to tell people what I actually think." Many respondents indicated that they did not know what the Parliament is or what people do there, and that the Parliament should become more "people-friendly" by informing young people about the everyday happenings in the Parliament. Members of the Parliament could host meetings for young people and inform them about their work. A general comment about the mandate of the Sami Parliament of Finland is that, considering peoples' expectations on the Sami Parliament and the duties it has, its power to influence and affect decisions on the national level seems inexcusably narrow.

B. Sweden

38. Areas of concern to Sami youth on the Swedish side of Sápmi include land and water rights, the future of reindeer husbandry, the high rates of suicide and Sweden's failure to ratify ILO Convention No. 169. Sami youth in Sweden are also concerned about the lack of education and teaching about the Sami in national schools. More cooperation with Sami youth in other parts of Sápmi is desired.

39. Language revitalization, taking into account the smaller Sami languages, which are in grave danger of becoming extinct, is a reoccurring topic. Some respondents reported that they are ashamed about the poor level of Sami language instruction that Swedish schools offer Sami children and youth. To secure a future for the Sami languages, respondents suggested that the Sami Parliament of Sweden encourage more young people to learn Sami by providing scholarships and economic support for students who wish to learn a Sami language.

40. Reindeer husbandry was brought up for discussion by a number of respondents, many of whom view the future of reindeer husbandry as a prime concern and call on the Sami Parliament to actively work to secure opportunities for young Sami to engage in reindeer husbandry. The policy of the Swedish State which imposes regulations on reindeer herders, is also of concern. One respondent wrote that, "if I was the President of the Swedish Sami Parliament I would work for a new reindeer husbandry act, written from a Sami point of view".

41. Some respondents, however, argued that the Sami Parliament places too much focus on reindeer husbandry and fails to see the diversity within the Sami community. Illustrating this argument, one respondent wrote: "In Swedish Sami politics there is a lot of focus on reindeer husbandry. Reindeer husbandry is important, but I think that the Swedish Sami Parliament needs to work more for all members of our society."

42. Concurring with the youth council, respondents suggested that more accessible and attractive information about the Sami Parliament would encourage more young people to become interested and politically active in politics. The youth council could be more visible among Sami youth, and could increase cooperation with other organizations in Sweden and across its borders. A number of respondents also suggested that more conferences and courses on how to become more politically engaged could be arranged.

C. Norway

43. Areas of concern and priority for Sami youth on the Norwegian side include: securing a future for the Sami languages;[25] the need to teach both Sami and non-Sami youth about the Sami languages, history and culture; Sami youth living outside the Sami heartland; and racism and discrimination towards the Sami. As in Finland and Sweden, Sami youth in Norway report that Sami languages and Sami traditions need to be strengthened, and that more efforts should be made to revitalize and secure a future for all Sami languages. Many responses revealed that young Sami worry that the Sami languages are used only for bureaucratic documents and texts, and many wish that more focus could be placed on the importance of Sami languages as living and spoken languages. In light of this, many respondents expressed a wish for more films dubbed in Sami, for good-quality Sami programmes for television[26] and for bestselling books translated to Sami. Some respondents thought that more funding for, and promotion of, Sami contemporary cultural expressions was needed.

44. As is the case with Sami youth in Finland and Sweden, Sami youth in Norway call on their Sami Parliament to provide teaching about the Sami in Norwegian schools. There is a good deal of frustration over the fact that the Norwegian general public knows very little about Sami history, culture and living conditions. History books should include a Sami perspective, as well as thorny subjects such as the Norwegianization[27] process and how it has affected the Sami. As in Finland and Sweden, Sami youth in Norway are concerned about discrimination and harassment of the Sami, and wish that their Parliament would focus more on combating racism towards the Sami.

45. Many respondents wrote that Sami politics and the work of the Sami Parliament place too great a focus on extractive industries, fisheries and reindeer husbandry. There is a general suggestion that the Sami Parliament should focus more on the everyday lives of young Sami by providing more funding for youth organizations who arrange happenings and events where Sami youth can meet.[28]

46. Respondents stressed that young people are not disinterested in politics but that they are disengaged because they do not know how to become politically active. The Sami Parliament and the youth committee could provide courses, training, conferences and workshops on the Sami Parliament and current issues to attract Sami youth and interest them in politics. Many suggested that the Parliament should offer educational tours to school classes and to young people who want to learn

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[25] Securing a future for all Sami languages could, in the view of many respondents, be done by offering better possibilities to study Sami and by increasing the budget for education and teaching materials in Sami. There is also a need for more Sami teachers and language teaching for both youth and adults in all parts of the country.

[26] Some respondents expressed their wish for Disney films and Moomin movies in Sami, and that "Sami children's programmes in all Sami languages should be shown on television every day."

[27] The Norwegianization process refers to the Norwegian State's efforts to assimilate the Sami and make them Norwegian by forcing them to discontinue using their languages and changing their values of their culture and national identity. Those efforts were long-lasting and extensive. Similar efforts were made by the Governments of Finland and Sweden.

[28] Suggestions include more concerts, plays, sport events and workshops where young Sami can meet. One respondent reported that if she could be the president of the Sami Parliament of Norway for one day, she would arrange a Sami fashion week in the town of Kautokeino.

more about the Parliament and that courses on politics be introduced in schools at an early stage.

D. Greenland and Denmark

47. Matters of concern to Greenlandic youth include: the low standards of the educational system in Greenland; social problems affecting children and youth; the lack of facilities for recreational activities; and the low level of participation on the part of youth in decision-making processes. Serious concern is expressed over the state of Greenland's schools and the standards of the education. Run-down facilities, old-fashioned school books and unqualified teachers are identified as serious problems that cause many young Greenlanders to drop out of school.[29]

48. Young Greenlanders call for more courses in English and Danish, although some respondents stated that they would like to learn less Danish. The need for more fluency in foreign languages is linked to the fact that Greenland is becoming an actor on the global stage and the corresponding desire of young Greenlanders' to communicate with the rest of the world. Increased fluency in English and Danish is also regarded as a necessity, as there are very few teaching materials available in Greenlandic.

49. In light of the high numbers of young Greenlanders who move to Denmark to study, many respondents suggested that there should more opportunities to obtain higher education in Greenland so that not everyone should have to move to Denmark get a good education. Courses in dance, theatre, music, environmental studies were included on the wish-list of many of the respondents. In addition, it should be made easier to study in Nordic countries other than Denmark.

50. The high numbers of children and youth affected by social problems in Greenland is a cause for concern. Many, even the youngest respondents, are aware of the social problems affecting children and youth to an alarming extent. Concerns were expressed by many children whose parents struggle with substance abuse problems. Young Greenlanders also want immediate action to combat the high rates of suicide and request that intervention programmes and support initiatives be offered to the many children and youth who need assistance to get their lives back on track.

51. The lack of activity centres and meeting places for youth is a reoccurring topic. Frustration was expressed over the fact that there are no sport facilities or meeting places for youth in many towns, and that young people who live in small villages and poor municipalities do not get the same opportunities as those living in the capital city, Nuuk. Many regard the lack of youth centres and sport facilities as a factor that contributes to the magnitude of drug and alcohol abuse among youth, as young people in many of the smaller communities feel that there is nothing for them to do. Greenlanders in both Greenland and Denmark emphasized the dire need for youth centres, sport facilities and other meeting places for young Greenlanders in their homeland.

[29] Greenland's spokesperson for children reports that as many as one third of Greenlandic youth do not finish their secondary education.

52. The respondents highlight that Greenlandic children and youth in general do not know much about basic rights[30] and that more information, and easily accessible information, about the rights of children and youth should be made public and disseminated in Greenland. As for youth and participation in decision-making, an overwhelming majority of the respondents asserted their desire to have a more systematic contact to the politicians and authorities and the need for a youth council or youth parliament as active as the Inatsisartut.

53. Asked to provide feedback to the Inatsisartut on how to better engage youth in their work and decision-making processes, young Greenlanders suggested that the Parliament take a more modern approach to reaching young people, for instance through the use of Facebook, smartphone applications and Internet forums.[31] The establishment of a more active youth parliament that would visit schools across the country to inform young Greenlanders about its existence and its work is also recommended. Schools (both primary and secondary schools) should take a more active role in teaching young Greenlanders about democracy and politics through the organization of thematic weeks and events and student elections, the establishment of youth forums and the hosting of visits from politicians.

54. In their responses, Greenlanders in Denmark also raised the subject of the high cost of airfares, both for travelling to Greenland and within Greenland, as a result of which, many Greenlanders in Denmark cannot afford to travel home to Greenland more than once a year. The experience of homesickness, and the unaffordable cost of going home on a regular basis, has caused some of the respondents to discontinue their studies in Denmark.

V. Conclusions and recommendations

A. Conclusions

55. The Sami Parliaments of Finland, Sweden and Norway include youth in their decision-making process through youth councils (the Sami Parliaments of Finland and Sweden) and a youth committee (the Sami Parliament of Norway), which are consulted in the course of their deliberations on matters that concern youth. The status of the councils and the committee and the extent of their rights and duties vary from Parliament to Parliament. The Inatsisartut does not have any formalized structures for incorporating youth in its decision-making, but arranges a youth parliament on a biannual basis. All four political institutions report that young men are seemingly less interested and/or active in politics and participation in decision-making processes. Members of the youth councils at the Sami Parliaments in Finland and Sweden and the youth committee at the Sami Parliament of Norway

[30] A study on children's right to participation in the Nordic countries, conducted by the United Nations Children's Fund (UNICEF) in Denmark in 2009-2010, shows that children in Greenland have less knowledge about their rights than children in the other Nordic countries. In the responses to the questionnaire collected for the present study, young Greenlanders emphasized that children and youth in Greenland need to be better informed about their basic rights, including the right to protection from violence and abuse.

[31] The upcoming youth parliament, scheduled to take place in 2013, has used social networks and apps to reach out to and engage young people wishing to participate.

all report that, overall, they are pleased with the system in place, but, as this study also indicates, there is room for improvement.

56. Responses from Greenland reveal that the youth parliament is perceived as a good way to get more young people interested in politics, but that it should not be considered as a good mechanism to incorporate youth in the decision-making processes of the Inatsisartut. An overwhelming majority of the young Greenlanders interviewed for the study asserted their desire to have a more systematic contact to the politicians and authorities, and the need for a youth council or youth parliament as active as the Inatsisartut.

57. In response to the survey questionnaire, Sami respondents in Finland, Sweden and Norway shared their concerns over the future of the Sami languages, especially the languages that are spoken by numerically small groups of Sami, which are severely threatened. A perceived increase in anti-Sami sentiments was raised by Sami youth in all three countries. Sami respondents across the borders also shared frustration over the insufficient teaching of Sami history and culture in national schools, and stressed that stereotypical presentations of the Sami in schools contributed to the negative attitudes and hostility towards the Sami on the part of the general public. Greenlandic respondents both in Greenland and Denmark, expressed their concern over the low standards of the educational system in Greenland, the magnitude of social problems affecting children and youth and the almost complete lack of youth centres in the smaller towns and communities in Greenland.

B. Recommendations

The Sami Parliaments

58. Following the practice of the Sami Parliament of Finland, the Sami Parliaments in Sweden and Norway might wish to consider granting the members of their youth council and youth committee the right to speak at the plenary sessions of Parliament.

59. The Sami Parliament of Sweden could also consider measures to increase the participation of Sami youth in its activities by working on matters of concern to youth and assisting the youth councils in their work. In addition, it might also be possible for the Parliament, in cooperation with its youth council, to find resources and ways to ensure the implementation of the youth council plan of action (approved by the Sami Parliament in 2007).

60. Following suggestions made by Sami respondents in Finland, Sweden and Norway, all three Sami Parliaments may wish to consider organizing activities to promote the work of the Parliaments, such as offering, and actively advertising, educational tours of the Parliaments for school classes and for young people who are interested in the daily work of the Parliaments.

The Inatsisartut

61. To ensure the participation of youth, the Inatsisartut may wish to consider the establishment of a permanent, consultative mechanism that would allow for regular input from youth in decision-making processes on matters that impact children and youth in Greenland. The establishment of geographical balance, taking into account

the high number of young Greenlanders living in Denmark, age-balance and gender parity could form part of this structure.

62. Within smaller towns and communities in Greenland, youth would benefit by having access to youth centres and recreational activity centres offering recreational activities.

63. Young people would also benefit by having their views reflected in the ongoing work of drafting the first Greenlandic constitution.

64. Based on previous studies and communications with young Greenlanders in Greenland and Denmark, it is recommended that political action be taken to ensure that children and youth are provided with more information about their rights, as set out in the United Nations Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of the Child.

The Governments of Finland, Sweden and Norway

65. Sharing the concerns of an overwhelming majority of Sami respondents in Finland, Sweden and Norway, and considering the increase in anti-Sami sentiments in all three counties, the Governments of Finland, Sweden and Norway need to revise their school curriculums and ensure that they have sufficient and up-to-date information about the Sami and their culture, history and languages.

66. In line with the above, the three Governments should organize public campaigns to promote the value and the richness of the Sami culture among the general public.

The youth councils and the youth committee of the Sami Parliaments

67. Conferences, seminars, workshops and other activities could also be arranged in the smaller towns and municipalities in Sápmi.

68. Considering that all four political institutions have indicated that young men are less interested and/or active in politics and participation in decision-making processes, the youth councils and the youth committee could develop strategies aimed at engaging young Sami men in their work and in the political processes of the Sami Parliaments, and support young women in pursuing their political engagement as adults in decision-making within the Sami Parliaments.